
By: **Delegates Cadden, Doory, Leopold, Love, Rosso, Sophocleus, Vallario,
and Weir**

Introduced and read first time: February 9, 2001

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 19, 2001

CHAPTER _____

1 AN ACT concerning

2 **Business Regulation and Health Occupations - Regulation of Crematories**

3 FOR the purpose of requiring crematories that are operated as part of a cemetery or
4 independent of a cemetery, except those crematories that are owned and
5 operated by ~~a funeral director, mortician, or surviving spouse licensed in~~
6 ~~accordance with Title 7 of the Health Occupations Article~~ certain licensees or a
7 business entity majority owned by certain licensees, to obtain a permit from the
8 Office of Cemetery Oversight before the crematories may be used for the
9 cremation of human remains; requiring the registration of certain individuals
10 prior to engaging in the operation of a crematory; requiring certain crematories
11 to obtain a permit prior to engaging in the operation of a crematory; ~~prohibiting~~
12 ~~the Director of the Office of Cemetery Oversight from assessing a crematory a~~
13 ~~per-occurrence application fee~~; requiring certain crematories to comply with
14 certain requirements regarding preneed burial contracts; requiring crematories
15 which are owned and operated by ~~a funeral director, mortician, or surviving~~
16 ~~spouse licensed in accordance with Title 7 of the Health Occupations Article~~
17 certain licensees or a business entity majority owned by certain licensees to
18 obtain a license from the State Board of Morticians before the crematories may
19 be used for the cremation of human remains; authorizing the operation of
20 crematory establishments; expanding the powers and duties of the Board;
21 establishing certain investigatory procedures for the Board; requiring a
22 crematory licensee to notify the Board when certain circumstances change;
23 requiring certain authorization be provided to the crematory prior to cremation;
24 providing that a crematory authority that cremates or disposes of human
25 remains pursuant to a signed cremation authorization form is immune to any
26 liability arising from the crematory authority's reliance on the authorization
27 form; requiring a crematory to provide certain receipts and maintain certain

1 records; providing that certain procedures be followed regarding identification of
2 human remains; providing that a crematory operator is not liable for refusing to
3 accept human remains or perform a cremation under certain circumstances;
4 prohibiting the cremation of human remains with a potentially hazardous
5 pacemaker or other potentially hazardous implant in place; prohibiting the
6 simultaneous cremation of the human remains of more than one person without
7 certain authorization; providing for the handling of cremated remains; providing
8 for the disposal of cremated remains which remain in the possession of a
9 crematory for a certain period of time without instruction for their disposal by
10 an authorizing agent; providing for the inspection of crematories; providing that
11 an inspection fee may be assessed on a crematory authority; requiring the Office
12 and the Board to cooperate with other governmental agencies to ensure the
13 regulation of crematories; providing for the enforcement of this Act; establishing
14 certain penalties for the violation of this Act; requiring the Office and the Board
15 to concur in the proposal and adoption of each agency's regulations governing
16 crematories; defining certain terms; altering certain definitions; making a
17 stylistic change; and generally relating to the regulation of crematories by the
18 Office of Cemetery Oversight and the State Board of Morticians.

19 BY repealing and reenacting, with amendments,
20 Article - Business Regulation
21 Section 5-101, 5-102, 5-204, 5-205, 5-301 through 5-304, 5-306, 5-308, 5-310,
22 5-311, 5-401 through 5-403, 5-701, and 5-901 through 5-903
23 Annotated Code of Maryland
24 (1998 Replacement Volume and 2000 Supplement)

25 BY adding to
26 Article - Business Regulation
27 Section 5-7A-01 through 5-7A-15, inclusive, to be under the new subtitle
28 "Subtitle 7A. Crematories"
29 Annotated Code of Maryland
30 (1998 Replacement Volume and 2000 Supplement)

31 BY repealing and reenacting, with amendments,
32 Article - Health Occupations
33 Section 7-101, 7-102, 7-205, 7-301, 7-315, 7-316, 7-316.1, 7-317, 7-321,
34 7-411, 7-501, 7-502, and 7-508
35 Annotated Code of Maryland
36 (2000 Replacement Volume)

37 BY adding to
38 Article - Health Occupations
39 Section 7-310.1 through 7-310.4, 7-315.1; and 7-3A-01 through 7-3A-14,
40 inclusive, to be under the new subtitle "Subtitle 3A. Crematories"
41 Annotated Code of Maryland
42 (2000 Replacement Volume)

1 BY repealing and reenacting, without amendments,
2 Article - Health Occupations
3 Section 7-406
4 Annotated Code of Maryland
5 (2000 Replacement Volume)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
7 MARYLAND, That the Laws of Maryland read as follows:

8 **Article - Business Regulation**

9 5-101.

10 (a) In this title the following words have the meanings indicated.

11 (B) "AUTHORIZING AGENT" MEANS A PERSON LEGALLY ENTITLED TO ORDER
12 THE CREMATION OF HUMAN REMAINS OR LEGALLY AUTHORIZED TO CONTROL THE
13 FINAL DISPOSITION OF HUMAN REMAINS.

14 [(b)] (C) (1) "Burial goods" means goods that are used in connection with
15 burial.

16 (2) "Burial goods" includes:

17 (i) a casket;

18 (ii) a grave liner;

19 (iii) a memorial;

20 (iv) a monument;

21 (v) a scroll;

22 (vi) an urn;

23 (vii) a vase; and

24 (viii) a vault.

25 [(c)] (D) "Burial goods business" means a business that provides burial goods.

26 [(d)] (E) (1) "Cemetery" means land used or to be used for burial.

27 (2) "Cemetery" includes a structure used or to be used for burial.

28 (F) "CREMATED REMAINS" MEANS ALL HUMAN REMAINS RECOVERED AFTER
29 COMPLETION OF CREMATION AND, IF DONE, PULVERIZATION.

1 (G) "CREMATION" MEANS THE PROCESS OF REDUCING HUMAN REMAINS TO
2 BONE FRAGMENTS THROUGH INTENSE HEAT AND EVAPORATION, WHICH MAY
3 INCLUDE ANY MECHANICAL OR THERMAL PROCESS.

4 (H) "CREMATORY" MEANS ~~A PERSON~~ AN INDIVIDUAL, SOLE PROPRIETORSHIP,
5 PARTNERSHIP, PROFESSIONAL ASSOCIATION, OR CORPORATION THAT CHARGES A
6 FEE FOR THE CREMATION OF HUMAN REMAINS.

7 (I) "CREMATORY AUTHORITY" MEANS A LEGAL ENTITY THAT HAS BEEN
8 APPROVED BY THE OFFICE TO OPERATE AS A CREMATORY AND PERFORM
9 CREMATIONS.

10 (J) "CREMATORY ESTABLISHMENT" MEANS THE BUILDING OR PORTION OF A
11 BUILDING THAT HOUSES THE NECESSARY APPLIANCES AND FACILITIES FOR THE
12 CREMATION OF HUMAN REMAINS.

13 [(e)] (K) "Director" means the Director of the Office of Cemetery Oversight.

14 [(f)] (L) "Engage in the operation of a cemetery" means owning, controlling, or
15 managing a cemetery, including performing activities necessary for:

16 (1) the establishment or improvement of a cemetery;

17 (2) interment; and

18 (3) the care, preservation, or embellishment of a cemetery.

19 (M) "ENGAGE IN THE OPERATION OF A CREMATORY" MEANS OWNING,
20 CONTROLLING, OPERATING, OR MANAGING A CREMATORY.

21 (N) (1) "FINAL DISPOSITION" MEANS THE LAWFUL DISPOSITION OF HUMAN
22 REMAINS OR HUMAN CREMATED REMAINS, INCLUDING INTERMENT AND
23 SCATTERING OF HUMAN CREMATED REMAINS OR, UNLESS THE AUTHORIZING AGENT
24 DESIRES THE HUMAN REMAINS RETURNED FROM THE MEDICAL INSTITUTION, THE
25 DELIVERY OF HUMAN REMAINS TO A MEDICAL INSTITUTION.

26 (2) "FINAL DISPOSITION" DOES NOT INCLUDE THE ACT OF CREMATION.

27 (O) "HUMAN REMAINS" MEANS THE BODY OF A DECEASED PERSON, OR PART
28 OF A BODY OR LIMB THAT HAS BEEN REMOVED FROM A LIVING PERSON, INCLUDING
29 THE BODY, PART OF A BODY, OR LIMB IN ANY STATE OF DECOMPOSITION.

30 [(g)] (P) "Interment" means all final disposition of human remains, including:

31 (1) earth burial;

32 (2) mausoleum entombment; and

33 (3) niche or columbarium interment.

34 [(h)] (Q) "Office" means the Office of Cemetery Oversight.

1 [(i)] (R) "Permit" means a permit issued by the Director to allow a
2 partnership, limited liability company, or corporation to operate a business through
3 which a registrant may engage in the operation of a cemetery or provide burial goods.

4 [(j)] (S) (1) "Preneed goods" means burial goods that are sold before the
5 buyer's death.

6 (2) "Preneed goods" does not include burial space.

7 [(k)] (T) "Provide burial goods" means:

8 (1) to sell, erect, or inscribe burial monuments; AND

9 (2) to sell burial goods.

10 [(l)] (U) "Registration" means a registration issued by the Director
11 authorizing an individual to operate a cemetery, OR TO OPERATE A CREMATORY, or to
12 provide burial goods.

13 [(m)] (V) "Registered cemeterian" means an individual registered to operate a
14 cemetery as a sole proprietor or on behalf of a permit holder.

15 (W) "REGISTERED CREMATORY OPERATOR" MEANS A PERSON REGISTERED TO
16 OPERATE A CREMATORY AS A SOLE PROPRIETOR OR ON BEHALF OF A PERMIT
17 HOLDER.

18 [(n)] (X) "Registered seller" means an individual registered to provide burial
19 goods as a sole proprietor or on behalf of a permit holder.

20 5-102.

21 (a) The registration and permitting provisions of this title do not apply to:

22 (1) a person that owns and operates a bona fide religious, nonprofit
23 cemetery in this State; or

24 (2) a not for profit organization created before 1900 by an act of the
25 General Assembly.

26 (b) This title does not apply to:

27 (1) the operation of a funeral establishment, including the sale of burial
28 goods in the ordinary course of the funeral establishment's business;

29 (2) THE OPERATION OF A CREMATORY WHICH IS OWNED AND
30 OPERATED BY A FUNERAL DIRECTOR, MORTICIAN, OR SURVIVING SPOUSE LICENSED
31 LICENSEE OR BUSINESS ENTITY MAJORITY OWNED BY A LICENSEE UNDER TITLE 7
32 OF THE HEALTH OCCUPATIONS ARTICLE OR A CREMATORY THAT IS SUBJECT TO THE
33 LICENSING PROVISIONS OF TITLE 7 OF THE HEALTH OCCUPATIONS ARTICLE;

1 [(2)] (3) a licensed funeral director acting within the scope of the funeral
2 director's license; or

3 [(3)] (4) a mortician acting within the scope of the mortician's license.

4 5-204.

5 (a) With the advice of the Advisory Council and after consultation with
6 representatives of the cemetery industry, the Director shall adopt:

7 (1) rules and regulations to carry out this title; and

8 (2) a code of ethics for engaging in the operation of a cemetery OR
9 CREMATORY, or providing burial goods.

10 (b) Upon receipt of a written complaint, or at the discretion of the Director, the
11 Director may conduct an investigation and an inspection of the records and site of a
12 registered cemeterian, REGISTERED CREMATORY OPERATOR, registered seller, and
13 permit holder.

14 (c) The Director may hold hearings on any matter covered by this title.

15 (d) To enforce this title, the Director may:

16 (1) administer oaths;

17 (2) examine witnesses; and

18 (3) receive evidence.

19 (e) (1) The Director may issue a subpoena for the attendance of a witness to
20 testify or for the production of evidence in connection with any investigation or
21 hearing conducted in accordance with this section.

22 (2) If a person fails to comply with a subpoena issued under this
23 subsection, on petition of the Director, a circuit court may compel compliance with the
24 subpoena.

25 (f) (1) The Director may sue in the name of the State to enforce any
26 provision of this title by injunction.

27 (2) In seeking an injunction under this subsection, the Director is not
28 required to:

29 (i) post bond; or

30 (ii) allege or prove either that:

31 1. an adequate remedy at law does not exist; or

1 (II) THE DIRECTOR MAY NOT ASSESS A CREMATORY A
2 PER-OCCURRENCE APPLICATION FEE.

3 (2) In establishing the fees, the Director shall consider the size of the
4 business, whether the business is for-profit or designated as tax exempt under §
5 501(c) of the Internal Revenue Code, the volume of business conducted, and the type
6 of services provided, including the percentage of preneed contracts written.

7 (c) The fees charged shall be set so as to approximate the direct and indirect
8 cost of maintaining the Office.

9 (d) The Director shall pay all funds collected under this title to the
10 Comptroller who shall distribute the fees to the Cemetery Oversight Fund.

11 (e) (1) The Fund shall be used to cover the actual documented direct and
12 indirect costs of fulfilling the statutory and regulatory duties of the Office.

13 (2) The Fund is a continuing nonlapsing fund, not subject to § 7-302 of
14 the State Finance and Procurement Article.

15 (3) Any unspent portions of the Fund may not revert or be transferred to
16 the General Fund of the State, but shall remain in the Fund to be used for the
17 purposes specified in this title.

18 (4) No other State money be may used to support the Fund.

19 (f) (1) The Director shall administer the Fund.

20 (2) Moneys in the Fund may be expended for any lawful purpose
21 authorized under the provisions of this title.

22 (g) The Legislative Auditor shall audit the accounts and transactions of the
23 Fund as provided in § 2-1220 of the State Government Article.

24 5-301.

25 An individual shall register with the Office before:

26 (1) engaging in the operation of a cemetery in this State; [or]

27 (2) providing burial goods in this State; OR

28 (3) ENGAGING IN THE OPERATION OF A CREMATORY, EXCEPT FOR
29 CREMATORIES THAT ARE LICENSED UNDER, OR SUBJECT TO THE LICENSING
30 PROVISIONS OF, TITLE 7 OF THE HEALTH OCCUPATIONS ARTICLE.

31 5-302.

32 (a) In order to register, an applicant shall meet the requirements of this
33 section.

1 (b) The applicant must be at least 18 years old.

2 (c) The applicant must be of good character and reputation.

3 (d) The cemetery, CREMATORY, or burial goods business with which the
4 applicant is affiliated must be financially stable in accordance with § 5-304 of this
5 subtitle.

6 5-303.

7 (a) An applicant shall register by:

8 (1) submitting to the Director an application on the form that the
9 Director provides; and

10 (2) paying a nonrefundable application fee set by the Director.

11 (b) The application shall state:

12 (1) the name, date of birth, and residential address of the applicant;

13 (2) the name and fixed address of the affiliated cemetery, CREMATORY,
14 or burial goods business;

15 (3) whether the cemetery, CREMATORY, or burial goods business with
16 which the applicant is affiliated is owned or controlled by a partnership, limited
17 liability company, or corporation;

18 (4) the name and residential address of each employee who sells
19 cemetery goods or services to the public for the applicant while engaging in the
20 operation of a cemetery, CREMATORY, or burial goods business; and

21 (5) any other reasonable information that the Director determines is
22 necessary to carry out this title.

23 5-304.

24 (a) Each applicant shall demonstrate the financial stability of the cemetery,
25 CREMATORY, or burial goods business with which the applicant is affiliated by
26 providing the Director with a financial statement with the application for
27 registration.

28 (b) If the applicant is an existing business, the financial statement shall:

29 (1) be on the form that the Director requires;

30 (2) contain a statement by a certified public accountant employed by the
31 applicant, detailing the assets and liabilities of the cemetery, ~~CREMATORY~~, or burial
32 goods business for the last fiscal year; and

1 (3) contain an opinion by the certified public accountant as to the
2 financial stability of the cemetery, ~~CREMATORY~~, or burial goods business.

3 (c) If the applicant is a new business, the financial statement shall:

4 (1) be on a form that the Director requires; and

5 (2) satisfy criteria that the Director adopts under subsection (d) of this
6 section.

7 (d) (1) The Director shall make a determination of the financial stability of
8 each applicant based on criteria that the Director adopts.

9 (2) The Director shall adopt separate criteria to determine the financial
10 stability of applicants that are new businesses or existing businesses.

11 5-306.

12 (a) While a registration is in effect, it authorizes the registrant to engage in
13 the operation of a cemetery, ~~CREMATORY~~, or burial goods business.

14 (b) This title does not limit the right of a person to practice funeral direction or
15 mortuary science OR OPERATE A ~~CREMATORY~~, if the person is licensed or otherwise
16 authorized under Title 7 of the Health Occupations Article.

17 5-308.

18 Within 1 week after the effective date of the change, a registrant or permit
19 holder shall submit to the Director an application form that shows a change in the:

20 (1) cemetery, ~~CREMATORY~~, or burial goods business with which a
21 registrant is affiliated;

22 (2) registered cemeterian, REGISTERED ~~CREMATORY OPERATOR~~, or
23 registered seller designated as responsible for the cemetery operations, ~~CREMATORY~~
24 OPERATIONS, or for providing burial goods for the permit holder;

25 (3) employees of the permit holder who engage in the sale of goods or
26 services to the public;

27 (4) officers, directors, members, or agents of the permit holder; or

28 (5) name or address of the registrant or permit holder.

29 5-310.

30 (a) Subject to the hearing provisions of § 5-312 of this subtitle, the Director
31 may deny a registration or permit to an applicant, reprimand a registrant or permit
32 holder, or suspend or revoke a registration or permit, if an applicant, registrant, or
33 permit holder, or an agent, employee, officer, director, or partner of the applicant,
34 registrant, or permit holder:

- 1 (1) fraudulently or deceptively obtains or attempts to obtain a
2 registration or permit;
- 3 (2) fraudulently or deceptively uses a registration or permit;
- 4 (3) under the laws of the United States or of any state, is convicted of a:
- 5 (i) felony; or
- 6 (ii) misdemeanor that is directly related to the fitness and
7 qualification of the applicant, registrant, or permit holder to own or operate a
8 cemetery OR CREMATORY or provide burial goods;
- 9 (4) fails to provide or misrepresents any information required to be
10 provided under this title;
- 11 (5) violates this title;
- 12 (6) violates the code of ethics adopted by the Director;
- 13 (7) violates a regulation adopted under this title;
- 14 (8) fails to provide reasonable and adequate supervision of the operation
15 of the cemetery OR CREMATORY or the provision of burial goods by agents, employees,
16 officers, directors, or partners affiliated with a cemetery, CREMATORY, or burial goods
17 business;
- 18 (9) refuses to allow an inspection required by this title;
- 19 (10) fails to comply with an order of the Director;
- 20 (11) fails to comply with any terms of settlement under a binding
21 arbitration agreement; or
- 22 (12) is found guilty by a court in this State of violating an unfair and
23 deceptive trade practices provision under Title 13 of the Commercial Law Article.
- 24 (b) (1) If a registrant or permit holder is charged with a violation of this title
25 that could result in suspension or revocation of the registration or permit, the
26 Director may seek an immediate restraining order in a circuit court in this State to
27 prohibit the registrant or permit holder from engaging in the operation of any
28 cemetery, CREMATORY, or burial goods business.
- 29 (2) The restraining order is in effect until:
- 30 (i) the court lifts the order; or
- 31 (ii) the charges are adjudicated or dismissed.

1 (c) If a registrant or permit holder is charged with a violation of this title that
2 could result in suspension or revocation of the registration or permit, the Director
3 may petition a court to:

4 (1) appoint a receiver or trustee to take charge of the assets and operate
5 the business of the person in the event that the registration or permit is suspended or
6 revoked; and

7 (2) take other actions as are appropriate to protect the public interest.

8 (d) Instead of or in addition to suspending or revoking a registration, the
9 Director may impose a civil penalty:

10 (1) not to exceed \$5,000 for each violation of this title or an order of the
11 Director under this title; and

12 (2) not to exceed \$500 for each day a violation continues past the time set
13 for its correction.

14 (e) To determine the amount of the penalty imposed under this subsection, the
15 Director shall consider:

16 (1) the seriousness of the violation;

17 (2) the harm caused by the violation;

18 (3) the good faith efforts of the registrant or permit holder; and

19 (4) any history of previous violations by the registrant or permit holder.

20 (f) Any civil penalties collected under this section shall be paid into the
21 General Fund of the State.

22 (g) The Director shall consider the following facts in the granting, denial,
23 renewal, suspension, or revocation of a registration or permit or the reprimand of a
24 registrant or permit holder when an applicant, registrant, or permit holder, or an
25 agent, employee, officer, director, or partner of an applicant, registrant, or permit
26 holder, is convicted of a felony or misdemeanor described in subsection (a)(3) of this
27 section:

28 (1) the nature of the crime;

29 (2) the relationship of the crime to the activities authorized by the
30 registration or permit;

31 (3) with respect to a felony, the relevance of the conviction to the fitness
32 and qualification of the applicant, registrant or permit holder or agent, employee,
33 officer, director, or partner to operate a cemetery OR CREMATORY or provide burial
34 goods;

35 (4) the length of time since the conviction; and

1 (5) the behavior and activities of the applicant, registrant, or permit
2 holder, or agent, employee, officer, director, or partner before and after the conviction.
3 5-311.

4 (a) Subject to the provisions of this section, the Director shall commence
5 proceedings on a complaint made by any person to the Director.

6 (b) A complaint shall:

7 (1) be in writing;

8 (2) state specifically the facts on which the complaint is based; and

9 (3) be made under oath by the person who submits the complaint.

10 (c) (1) The Director shall review each complaint and shall attempt to
11 negotiate a settlement of the complaint between the complainant and the registrant
12 or permit holder.

13 (2) Notwithstanding § 5-102 of this title, the Director may receive and
14 attempt to negotiate a settlement to resolve complaints concerning persons required
15 to file statements under § 5-405 of this title and in connection with the operation of a
16 cemetery OR CREMATORY or the sale of preneed goods.

17 (3) The Director may not take any actions described in subsection (d)(1)
18 and (2) of this section for complaints involving persons exempt under § 5-102.

19 (d) If the Director is unable to negotiate a settlement of the complaint, the
20 Director may:

21 (1) at the request of either party, refer the complaint to the Office of the
22 Attorney General or the Office of Administrative Hearings for binding arbitration, if
23 both parties agree to binding arbitration;

24 (2) initiate an investigation; or

25 (3) dismiss the complaint.

26 (e) If, after investigation, the Director determines that there is a reasonable
27 basis to believe that there are grounds for disciplinary action under § 5-310 of this
28 title, the Director shall provide the person against whom the action is contemplated
29 notice and an opportunity for a hearing under § 5-312 of this subtitle.

30 (f) (1) If, after investigation, the Director determines that there is not a
31 reasonable basis to believe that there are grounds for disciplinary action, the Director
32 shall dismiss the complaint.

33 (2) Any party aggrieved by the dismissal may take a judicial appeal in
34 accordance with the provisions of Title 10 of the State Government Article.

1 (g) Once a complaint has been referred for binding arbitration, the registrant
2 or permit holder shall comply with the terms of the settlement.

3 (h) (1) The Director shall adopt guidelines that establish a schedule for the
4 prompt and timely processing and resolution of each complaint made to the Director.

5 (2) Beginning December 31, 1998, and on or before December 31 of each
6 year thereafter, the Director shall report, subject to § 2-1246 of the State Government
7 Article, to the General Assembly on the number of complaints resolved within the
8 schedule adopted under paragraph (1) of this subsection and the number of
9 complaints received under subsection (c)(2) of this section.

10 5-401.

11 (a) Subject to the provisions of this section, a registered cemeterian,
12 REGISTERED CREMATORY OPERATOR, or registered seller may engage in the
13 operation of a cemetery, CREMATORY, or burial goods business as a sole proprietor or
14 through:

15 (1) a corporation as an officer, director, employee, or agent of the
16 corporation;

17 (2) a limited liability company as a member, employee, or agent of the
18 limited liability company; or

19 (3) a partnership as a partner, employee, or agent of the partnership.

20 (b) Subject to the provisions of this title, a corporation, limited liability
21 company, or partnership may engage in the operation of a cemetery, CREMATORY, or
22 burial goods business through a registered cemeterian, REGISTERED CREMATORY
23 OPERATOR, or registered seller.

24 (c) (1) A registered cemeterian who engages in the operation of a cemetery
25 through a corporation, limited liability company, or partnership under this title is
26 subject to all of the provisions of this title that relate to engaging in the operation of
27 a cemetery.

28 (2) A registered seller who engages in the operation of a burial goods
29 business through a corporation, limited liability company, or partnership under this
30 title is subject to all of the provisions of this title that relate to providing burial goods
31 services.

32 (3) A REGISTERED CREMATORY OPERATOR WHO ENGAGES IN THE
33 OPERATION OF A CREMATORY THROUGH A CORPORATION, LIMITED LIABILITY
34 COMPANY, OR PARTNERSHIP UNDER THIS TITLE IS SUBJECT TO ALL OF THE
35 PROVISIONS OF THIS TITLE THAT RELATE TO ENGAGING IN THE OPERATION OF A
36 CREMATORY.

37 (d) (1) A corporation, limited liability company, or partnership that engages
38 in the operation of a cemetery, CREMATORY, or burial goods business under this title

1 is not, by its compliance with this title, relieved of any responsibility that the
2 corporation, limited liability company, or partnership may have for an act or an
3 omission by its officer, director, member, partner, employee, or agent.

4 (2) An individual who engages in the operation of a cemetery,
5 CREMATORY, or burial goods business through a corporation, limited liability
6 company, or partnership is not, by reason of the individual's employment or other
7 relationship with the corporation, limited liability company, or partnership, relieved
8 of any individual responsibility that the individual may have regarding that practice.
9 5-402.

10 A corporation, limited liability company, or partnership shall obtain a permit
11 issued by the Director, before the corporation, limited liability company, or
12 partnership may engage in the operation of a cemetery, CREMATORY, or burial goods
13 business in the State.

14 5-403.

15 To qualify for a permit, a corporation, limited liability company, or partnership
16 shall:

17 (1) designate a separate registered cemeterian, REGISTERED
18 CREMATORY OPERATOR, or registered seller as the individual responsible for the
19 operations of each affiliated cemetery, CREMATORY, or burial goods business;

20 (2) provide the name and business address of each affiliated cemetery,
21 CREMATORY, or burial goods business; and

22 (3) provide a list of the officers, directors, members, partners, agents,
23 and employees of the entity applying for the permit.

24 5-701.

25 (a) In this subtitle the following words have the meanings indicated.

26 (b) (1) "Burial space" means land or space in a structure used or to be used
27 for burial.

28 (2) "Burial space" includes a burial right in the land or space.

29 (c) "Buyer" means a person who buys preneed goods or preneed services.

30 (d) "Preneed burial contract" means a written instrument under which
31 preneed goods or preneed services are to be sold and delivered or performed.

32 (e) (1) "Preneed services" means services that are sold:

33 (i) before the buyer's death; and

34 (ii) in connection with burial OR CREMATION.

1 (2) "Preneed services" includes opening and closing a grave.

2 (f) "Seller" means a registered cemeterian, [a] REGISTERED CREMATORY
3 OPERATOR, registered seller, or any other person who sells preneed goods or preneed
4 services.

5 (g) "Specific funds" means money that is identified to a specific preneed burial
6 contract.

7 (h) "Trust account" means a preneed trust account.

8 SUBTITLE 7A. CREMATORIES.

9 5-7A-01.

10 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
11 INDICATED.

12 (B) "CREMATION CHAMBER" MEANS THE ENCLOSED SPACE WITHIN WHICH
13 THE PROCESS OF CREMATION OF HUMAN REMAINS TAKES PLACE.

14 (C) "CREMATION CONTAINER" MEANS A CONTAINER IN WHICH HUMAN
15 REMAINS ARE PLACED IN THE CREMATION CHAMBER FOR CREMATION.

16 (D) "EMBALMING" MEANS THE DISINFECTION OR PRESERVING OF HUMAN
17 REMAINS BY ARTERIAL OR CAVITY INJECTION OR ANY OTHER TYPE OF
18 PRESERVATION.

19 (E) "FACSIMILE DEVICE" MEANS A MACHINE THAT TRANSMITS, RECEIVES,
20 AND COPIES REPRODUCTIONS OR FACSIMILES OF DOCUMENTS OR PHOTOGRAPHS
21 THAT HAVE BEEN TRANSMITTED ELECTRONICALLY OR TELEPHONICALLY OVER
22 TELECOMMUNICATIONS LINES.

23 (F) "HOLDING FACILITY" MEANS AN AREA WITHIN OR ADJACENT TO THE
24 CREMATORY ESTABLISHMENT DESIGNED FOR THE RETENTION OF HUMAN REMAINS
25 PRIOR TO CREMATION.

26 (G) "PROCESSED REMAINS" MEANS THE END RESULT OF PULVERIZATION,
27 WHERE THE RESIDUE FROM THE CREMATION PROCESS IS CLEANED LEAVING ONLY
28 BONE FRAGMENTS REDUCED TO 5 MILLIMETERS OR LESS.

29 (H) "SEALABLE CONTAINER" MEANS ANY CONTAINER IN WHICH PROCESSED
30 REMAINS CAN BE PLACED AND SEALED SO AS TO PREVENT LEAKAGE OR THE
31 ENTRANCE OF FOREIGN MATERIALS.

32 5-7A-02.

33 A PERSON MAY ONLY OPERATE A CREMATORY ESTABLISHMENT AND PROVIDE
34 THE NECESSARY APPLIANCES AND FACILITIES FOR THE CREMATION OF HUMAN
35 REMAINS IN ACCORDANCE WITH THE PROVISIONS OF THIS TITLE.

1 5-7A-03.

2 (A) A CREMATION CONTAINER SHALL:

3 (1) BE COMPOSED OF READILY COMBUSTIBLE MATERIALS
4 SUITABLE FOR CREMATION;

5 (2) BE CLOSED AND PROVIDE A COMPLETE COVERING FOR THE
6 HUMAN REMAINS;

7 (3) BE RESISTANT TO LEAKAGE OR SPILLAGE; AND

8 (4) PROVIDE PROTECTION TO THE HEALTH AND SAFETY OF
9 CREMATORY ESTABLISHMENT PERSONNEL.

10 (B) A HOLDING FACILITY SHALL:

11 (1) COMPLY WITH APPLICABLE PUBLIC HEALTH LAWS;

12 (2) PRESERVE THE DIGNITY OF HUMAN REMAINS;

13 (3) RECOGNIZE THE INTEGRITY, HEALTH, AND SAFETY OF CREMATORY
14 ESTABLISHMENT PERSONNEL; AND

15 (4) BE SECURE FROM ACCESS BY UNAUTHORIZED PERSONS.

16 5-7A-04.

17 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A CREMATORY
18 AUTHORITY MAY NOT CREMATE HUMAN REMAINS UNTIL:

19 (1) THE CREMATORY HAS RECEIVED:

20 (I) A CREMATION AUTHORIZATION ON A FORM APPROVED BY THE
21 OFFICE AND SIGNED BY AN AUTHORIZING AGENT;

22 (II) IF APPLICABLE, A WRITTEN DELEGATION DOCUMENT OR
23 FACSIMILE; AND

24 (III) ANY OTHER DOCUMENTATION REQUIRED BY FEDERAL, STATE,
25 OR LOCAL LAW; AND

26 (2) THE CREMATORY AUTHORITY HAS WAITED AT LEAST 12 HOURS
27 FROM THE TIME OF DEATH OF THE INDIVIDUAL WHOSE REMAINS ARE TO BE
28 CREMATED.

29 (B) THE CREMATION AUTHORIZATION FORM SHALL BE PROVIDED BY THE
30 CREMATORY AUTHORITY TO THE AUTHORIZING AGENT AND SHALL CONTAIN THE
31 FOLLOWING INFORMATION:

32 (1) THE IDENTITY OF THE HUMAN REMAINS;

1 (2) THE NAME AND ADDRESS OF THE AUTHORIZING AGENT AND THE
2 RELATIONSHIP BETWEEN THE AUTHORIZING AGENT AND THE DECEASED;

3 (3) AUTHORIZATION FOR THE CREMATORY AUTHORITY TO CREMATE
4 THE HUMAN REMAINS;

5 (4) A REPRESENTATION THAT THE AUTHORIZING AGENT IS AWARE OF
6 NO OBJECTION TO THE HUMAN REMAINS BEING CREMATED BY ANY PERSON WHO
7 HAS A RIGHT TO CONTROL THE DISPOSITION OF THE HUMAN REMAINS; AND

8 (5) THE NAME AND ADDRESS OF THE PERSON AUTHORIZED TO CLAIM
9 THE CREMATED REMAINS FROM THE CREMATORY AUTHORITY.

10 (C) (1) IF AN AUTHORIZING AGENT IS NOT AVAILABLE TO EXECUTE THE
11 CREMATION AUTHORIZATION FORM, THE AUTHORIZING AGENT MAY DELEGATE
12 THAT AUTHORITY TO ANOTHER INDIVIDUAL IN WRITING, OR IF LOCATED OUTSIDE
13 THE AREA, BY SENDING THE CREMATORY AUTHORITY A SIGNED STATEMENT BY
14 FACSIMILE DEVICE THAT CONTAINS THE NAME, ADDRESS, AND RELATIONSHIP OF
15 THE SENDER TO THE DECEASED AND THE NAME AND ADDRESS OF THE INDIVIDUAL
16 TO WHOM AUTHORITY IS DELEGATED.

17 (2) UPON RECEIPT OF THE WRITTEN DELEGATION DOCUMENT OR A
18 COPY OF THE STATEMENT TRANSMITTED BY FACSIMILE DEVICE, THE CREMATORY
19 AUTHORITY SHALL ALLOW THE NAMED INDIVIDUAL TO SERVE AS THE AUTHORIZING
20 AGENT.

21 (D) (1) A PERSON SIGNING A CREMATION AUTHORIZATION FORM IS
22 DEEMED TO WARRANT THE TRUTHFULNESS OF ANY FACTS SET FORTH IN THE
23 CREMATION AUTHORIZATION FORM, INCLUDING THE IDENTITY OF THE DECEASED
24 WHOSE REMAINS ARE SOUGHT TO BE CREMATED AND THE AUTHORITY OF THAT
25 PERSON TO ORDER SUCH A CREMATION.

26 (2) A PERSON SIGNING A CREMATION AUTHORIZATION FORM IS
27 PERSONALLY AND INDIVIDUALLY LIABLE FOR ALL DAMAGE THAT RESULTS FROM A
28 SUBSEQUENT CREMATION OR DISPOSAL OF CREMATED REMAINS BASED ON THE
29 CREMATION AUTHORIZATION FORM.

30 (E) (1) A CREMATORY AUTHORITY THAT CREMATES HUMAN REMAINS
31 PURSUANT TO A SIGNED CREMATION AUTHORIZATION FORM OR RELEASES OR
32 DISPOSES OF CREMATED REMAINS PURSUANT TO A SIGNED CREMATION
33 AUTHORIZATION FORM IS IMMUNE TO ANY LIABILITY ARISING FROM THE
34 CREMATORY AUTHORITY'S RELIANCE ON THE CREMATION AUTHORIZATION FORM.

35 (2) A CREMATORY AUTHORITY IS NOT RESPONSIBLE OR LIABLE FOR ANY
36 VALUABLES DELIVERED TO THE CREMATORY OPERATOR WITH HUMAN REMAINS.

37 (F) (1) A CREMATORY AUTHORITY SHALL MAINTAIN A COPY OF EVERY
38 CREMATION AUTHORIZATION FORM REQUIRED UNDER THIS SECTION AS
39 PERMANENT RECORDS.

1 (2) SUCH RECORDS ARE SUBJECT TO INSPECTION AND COPYING BY THE
2 OFFICE.

3 5-7A-05.

4 (A) A CREMATORY AUTHORITY SHALL PROVIDE TO AN INDIVIDUAL WHO
5 DELIVERS HUMAN REMAINS FOR CREMATION A RECEIPT SIGNED BY BOTH THE
6 CREMATORY AUTHORITY AND THE PERSON WHO DELIVERED THE HUMAN REMAINS,
7 THAT INCLUDES:

8 (1) THE NAME OF THE INDIVIDUAL FROM WHOM THE HUMAN REMAINS
9 WERE RECEIVED AND THE NAME OF THE INDIVIDUAL'S EMPLOYER, IF ANY;

10 (2) THE NAME AND ADDRESS OF THE CREMATORY AUTHORITY; AND

11 (3) THE NAME AND ADDRESS OF THE DECEASED.

12 (B) THE CREMATORY AUTHORITY SHALL MAINTAIN A RECORD OF EACH
13 CREMATION WHICH SHALL INCLUDE:

14 (1) THE NAME OF THE DECEASED;

15 (2) THE DATE AND PLACE OF DEATH;

16 (3) THE NAME AND ADDRESS OF THE AUTHORIZING AGENT;

17 (4) THE DATE AND LOCATION OF CREMATION; AND

18 (5) THE NAME OF THE INDIVIDUAL WHO PERFORMED THE CREMATION.

19 (C) THE CREMATORY AUTHORITY SHALL PROVIDE A CERTIFICATE OF
20 DISPOSITION OF CREMATED REMAINS TO THE AUTHORIZING AGENT THAT
21 CONTAINS:

22 (1) THE NAME OF THE DECEASED;

23 (2) THE NAME OF THE AUTHORIZING AGENT;

24 (3) THE NAME AND ADDRESS OF THE PERSON WHO RECEIVED THE
25 CREMATED REMAINS FROM THE CREMATORY AUTHORITY; AND

26 (4) IF ASCERTAINABLE, THE LOCATION, INCLUDING THE NAME OF THE
27 CEMETERY AND PLOT LOCATION IF THE REMAINS ARE INTERRED, MANNER, AND
28 DATE OF THE DISPOSITION OF THE CREMATED REMAINS.

29 (D) (1) THE CREMATORY AUTHORITY SHALL MAINTAIN A COPY OF EVERY
30 RECORD AND RECEIPT REQUIRED BY THIS SECTION AS PERMANENT RECORDS.

31 (2) SUCH RECORDS ARE SUBJECT TO INSPECTION AND COPYING BY THE
32 OFFICE.

1 5-7A-06.

2 (A) A CREMATORY AUTHORITY IS NOT LIABLE FOR REFUSING TO ACCEPT A
3 BODY OR TO PERFORM A CREMATION UNTIL THE CREMATORY AUTHORITY RECEIVES
4 A COURT ORDER OR OTHER SUITABLE CONFIRMATION THAT A DISPUTE HAS BEEN
5 SETTLED IF:

6 (1) THE CREMATORY AUTHORITY IS AWARE OF ANY DISPUTE
7 CONCERNING THE CREMATION OF HUMAN REMAINS;

8 (2) THE CREMATORY AUTHORITY HAS A REASONABLE BASIS FOR
9 QUESTIONING THE REPRESENTATIONS MADE BY THE AUTHORIZING AGENT; OR

10 (3) THE CREMATORY AUTHORITY HAS ANY OTHER LAWFUL REASON.

11 (B) (1) IF A CREMATORY AUTHORITY IS AWARE OF A DISPUTE CONCERNING
12 THE RELEASE OR DISPOSITION OF CREMATED REMAINS, THE CREMATORY
13 AUTHORITY MAY REFUSE TO RELEASE THE CREMATED REMAINS, UNTIL THE
14 DISPUTE HAS BEEN RESOLVED OR THE CREMATORY AUTHORITY HAS BEEN
15 PROVIDED WITH A COURT ORDER AUTHORIZING THE RELEASE OR DISPOSITION OF
16 THE CREMATED REMAINS.

17 (2) A CREMATORY AUTHORITY IS NOT LIABLE FOR REFUSING TO
18 RELEASE OR DISPOSE OF CREMATED REMAINS IN ACCORDANCE WITH THIS
19 SUBSECTION.

20 5-7A-07.

21 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A
22 CREMATORY AUTHORITY MAY NOT:

23 (1) REQUIRE THAT HUMAN REMAINS BE PLACED IN A CASKET BEFORE
24 CREMATION OR THAT HUMAN REMAINS BE CREMATED IN A CASKET; OR

25 (2) REFUSE TO ACCEPT HUMAN REMAINS FOR CREMATION BECAUSE
26 THE REMAINS ARE NOT IN A CASKET.

27 (B) HUMAN REMAINS DELIVERED TO A CREMATORY ESTABLISHMENT MAY
28 NOT BE REMOVED FROM THE CREMATION CONTAINER AND THE CREMATION
29 CONTAINER SHALL BE CREMATED WITH THE HUMAN REMAINS, UNLESS THE
30 CREMATORY AUTHORITY HAS BEEN PROVIDED WITH WRITTEN INSTRUCTIONS TO
31 THE CONTRARY BY THE AUTHORIZING AGENT.

32 (C) A CREMATORY AUTHORITY MAY NOT REQUIRE THAT HUMAN REMAINS BE
33 SUBJECTED TO EMBALMING BEFORE CREMATION.

34 5-7A-08.

35 (A) IMMEDIATELY UPON TAKING CUSTODY OF HUMAN REMAINS, A
36 CREMATORY AUTHORITY SHALL VERIFY THAT THE HUMAN REMAINS BEAR A MEANS

1 OF IDENTIFICATION ATTACHED TO THE CREMATION CONTAINER OR TO THE
2 REMAINS.

3 (B) A CREMATORY AUTHORITY MAY NOT ACCEPT UNIDENTIFIED HUMAN
4 REMAINS.

5 (C) A CREMATORY AUTHORITY SHALL IDENTIFY THE REMAINS OF THE
6 DECEASED AS REQUIRED BY § 5-502 OF THE HEALTH - GENERAL ARTICLE AND § 7-406
7 OF THE HEALTH OCCUPATIONS ARTICLE.

8 5-7A-09.

9 (A) HUMAN REMAINS THAT HAVE BEEN DESIGNATED FOR CREMATION SHALL
10 BE CREMATED BY A CREMATORY AUTHORITY WITHIN A REASONABLE TIME AFTER
11 RECEIPT.

12 (B) IF A CREMATORY AUTHORITY IS UNABLE TO CREMATE HUMAN REMAINS
13 WITHIN A REASONABLE TIME AFTER RECEIPT, THE CREMATORY AUTHORITY SHALL
14 PROVIDE A HOLDING FACILITY FOR THE RETENTION OF THE HUMAN REMAINS.

15 (C) A CREMATORY AUTHORITY MAY NOT HOLD HUMAN REMAINS FOR
16 CREMATION UNLESS THE HUMAN REMAINS ARE CONTAINED WITHIN AN
17 INDIVIDUAL, RIGID, CLOSED CREMATION CONTAINER.

18 (D) A CREMATORY AUTHORITY MAY NOT ACCEPT A CREMATION CONTAINER
19 FROM WHICH THERE IS ANY EVIDENCE OF LEAKAGE OF THE BODY FLUIDS FROM
20 THE HUMAN REMAINS THEREIN.

21 (E) HUMAN REMAINS THAT ARE NOT EMBALMED AND THAT ARE NOT
22 CREMATED WITHIN A REASONABLE TIME SHALL BE HELD WITHIN A REFRIGERATED
23 HOLDING FACILITY AND IN COMPLIANCE WITH APPLICABLE PUBLIC HEALTH
24 REGULATIONS.

25 (F) A HOLDING FACILITY SHALL BE SECURE FROM ACCESS BY
26 UNAUTHORIZED PERSONS.

27 5-7A-10.

28 (A) (1) HUMAN REMAINS MAY NOT BE CREMATED WITH A POTENTIALLY
29 HAZARDOUS PACEMAKER OR OTHER POTENTIALLY HAZARDOUS IMPLANT IN PLACE.

30 (2) AN AUTHORIZING AGENT SHALL TAKE ALL NECESSARY STEPS TO
31 ENSURE THAT ANY HAZARDOUS PACEMAKER OR HAZARDOUS IMPLANT IS REMOVED
32 PRIOR TO CREMATION.

33 (B) IMMEDIATELY PRIOR TO BEING PLACED WITHIN THE CREMATION
34 CHAMBER, THE IDENTIFICATION OF THE HUMAN REMAINS SHALL BE VERIFIED BY
35 THE CREMATORY AUTHORITY AND IDENTIFICATION OF THE HUMAN REMAINS BEING
36 CREMATED SHALL BE PLACED NEAR THE CREMATION CHAMBER CONTROL PANEL
37 WHERE IT SHALL REMAIN IN PLACE UNTIL THE CREMATION PROCESS IS COMPLETE.

1 (C) (1) A CREMATORY AUTHORITY MAY NOT ENGAGE IN THE
2 SIMULTANEOUS CREMATION OF THE HUMAN REMAINS OF MORE THAN ONE PERSON
3 WITHIN THE SAME CREMATION CHAMBER UNLESS THE CREMATORY AUTHORITY
4 HAS RECEIVED SPECIFIC WRITTEN AUTHORIZATION TO DO SO FROM ALL
5 AUTHORIZING AGENTS FOR THE HUMAN REMAINS TO BE SO CREMATED.

6 (2) SUCH WRITTEN AUTHORIZATION SHALL EXEMPT THE CREMATORY
7 AUTHORITY FROM ALL LIABILITY FOR COMMINGLING OF THE PRODUCT OF THE
8 CREMATION PROCESS.

9 (3) (I) THE CREMATORY AUTHORITY SHALL MAINTAIN THE WRITTEN
10 AUTHORIZATIONS REQUIRED UNDER THIS SUBSECTION AS PERMANENT RECORDS.

11 (II) SUCH RECORDS ARE SUBJECT TO INSPECTION AND COPYING
12 BY THE OFFICE.

13 5-7A-11.

14 (A) (1) UPON COMPLETION OF THE CREMATION, INSOFAR AS IS POSSIBLE,
15 ALL OF THE RECOVERABLE RESIDUE OF THE CREMATION PROCESS SHALL BE
16 REMOVED FROM THE CREMATION CHAMBER AND PLACED IN A CONTAINER ~~TO~~
17 ~~AWAIT FINAL PROCESSING.~~

18 (2) THE IDENTIFICATION DESCRIBED UNDER § 5-7A-10(B) OF THIS
19 SUBTITLE SHALL BE REMOVED FROM THE CONTROL PANEL AREA AND ATTACHED TO
20 THE CONTAINER ~~TO AWAIT FINAL PROCESSING.~~

21 (B) THE ENTIRE CREMATED OR PROCESSED REMAINS SHALL BE PLACED IN A
22 SEALABLE CONTAINER OR IN SUCH CONTAINER AS MAY HAVE BEEN ORDERED BY
23 THE AUTHORIZING AGENT, TOGETHER WITH AN IDENTIFICATION TAG WHICH
24 COMPLIES WITH THE REQUIREMENTS OF § 7-411 OF THE HEALTH OCCUPATIONS
25 ARTICLE.

26 (C) IF THE CREMATED OR PROCESSED REMAINS WILL NOT FIT WITHIN THE
27 DIMENSIONS OF A SEALABLE CONTAINER OR CONTAINER AS MAY HAVE BEEN
28 ORDERED BY THE AUTHORIZING AGENT, THE REMAINDER OF THE CREMATED OR
29 PROCESSED REMAINS SHALL BE RETURNED TO THE AUTHORIZING AGENT, OR THE
30 AGENT'S REPRESENTATIVE, IN A SEPARATE, SEALABLE CONTAINER.

31 (D) IF THE CREMATED OR PROCESSED REMAINS DO NOT ADEQUATELY FILL
32 THE CONTAINER'S INTERIOR DIMENSIONS, THE EXTRA SPACE MAY BE FILLED WITH
33 PACKING MATERIAL THAT WILL NOT BECOME INTERMINGLED WITH THE CREMATED
34 REMAINS OR PROCESSED REMAINS AND THEN SECURELY CLOSED.

35 (E) (1) IF A SEALABLE CONTAINER IS USED TO RETURN CREMATED OR
36 PROCESSED REMAINS, THE CONTAINER SHALL BE PLACED WITHIN A SEPARATE,
37 STURDY BOX AND ALL BOX SEAMS TAPED CLOSED.

1 (2) THE OUTSIDE OF THE CONTAINER SHALL BE CLEARLY IDENTIFIED
2 WITH THE NAME OF THE DECEASED PERSON WHOSE CREMATED OR PROCESSED
3 REMAINS ARE CONTAINED THEREIN.

4 5-7A-12.

5 (A) (1) IF CREMATED REMAINS OR PROCESSED REMAINS HAVE BEEN IN THE
6 POSSESSION OF A CREMATORY AUTHORITY AS ORIGINALLY AUTHORIZED BY THE
7 AUTHORIZING AGENT, WITHOUT INSTRUCTIONS FOR FINAL DISPOSITION, FOR A
8 PERIOD OF 1 YEAR OR MORE FROM THE DATE OF CREMATION, THE CREMATORY
9 AUTHORITY MAY ATTEMPT TO CONTACT THE AUTHORIZING AGENT BY CERTIFIED
10 MAIL, RETURN RECEIPT REQUESTED, REQUESTING DISPOSITION INSTRUCTIONS AND
11 INFORMING THE AUTHORIZING AGENT OF THE PROCEDURES THAT MAY BE
12 FOLLOWED IF DISPOSITION INSTRUCTIONS ARE NOT RECEIVED.

13 (2) IF CONTACT CANNOT BE MADE OR DISPOSITION INSTRUCTIONS ARE
14 NOT GIVEN WITHIN 60 DAYS OF THE DATE ON WHICH THE CERTIFIED MAILING IS
15 MADE, THE CREMATORY AUTHORITY MAY ARRANGE FOR PERMANENT DISPOSITION
16 OF THE REMAINS IN ANY MANNER PERMITTED BY LAW.

17 (3) A CREMATORY AUTHORITY IS NOT LIABLE FOR THE
18 NONRECOVERABILITY OF ANY CREMATED OR PROCESSED REMAINS DISPOSED OF
19 UNDER THIS SECTION.

20 (B) THE AUTHORIZING AGENT SHALL BE LIABLE FOR REIMBURSING THE
21 CREMATORY AUTHORITY FOR ALL REASONABLE EXPENSES INCURRED IN DISPOSING
22 OF THE CREMATED REMAINS OR PROCESSED REMAINS UNDER THIS SECTION.

23 5-7A-13.

24 (A) (1) A CREMATORY AUTHORITY IS SUBJECT TO INSPECTIONS IN
25 ACCORDANCE WITH REGULATIONS ADOPTED BY THE OFFICE.

26 (2) AN INSPECTION FEE MAY BE ASSESSED ON A CREMATORY
27 AUTHORITY.

28 (B) THE OFFICE SHALL REIMBURSE A GOVERNMENT AGENCY FOR
29 ANY COSTS THAT AGENCY SUSTAINS BECAUSE OF AN INSPECTION OF A CREMATORY
30 AUTHORITY CONDUCTED BY THE OFFICE IN ACCORDANCE WITH REGULATIONS
31 ADOPTED BY THE OFFICE.

32 5-7A-14.

33 (A) IF THE DIRECTOR FINDS THAT A CREMATORY AUTHORITY OR A
34 CREMATORY SUBJECT TO THE PROVISIONS OF THIS TITLE HAS VIOLATED THIS TITLE
35 OR A REGULATION ADOPTED WITH RESPECT TO THIS TITLE, THE DIRECTOR MAY
36 REFER THE MATTER TO:

37 (1) THE ATTORNEY GENERAL FOR CIVIL ENFORCEMENT; OR

1 (2) THE APPROPRIATE STATE'S ATTORNEY FOR CRIMINAL
2 PROSECUTION.

3 (B) THE ATTORNEY GENERAL MAY SUE FOR AND A COURT MAY GRANT:

4 (1) INJUNCTIVE OR OTHER EQUITABLE RELIEF;

5 (2) IMPOSITION OF A CIVIL PENALTY NOT EXCEEDING \$5,000; OR

6 (3) BOTH.

7 (C) (1) IN ORDER TO ENSURE EFFECTIVE REGULATION OF CREMATORY
8 AUTHORITIES OR CREMATORIES SUBJECT TO THE PROVISIONS OF THIS TITLE, THE
9 DIRECTOR MAY COOPERATE WITH ANY GOVERNMENTAL LAW ENFORCEMENT OR
10 REGULATORY AGENCY.

11 (2) THIS COOPERATION MAY INCLUDE:

12 (I) PARTICIPATING IN A JOINT EXAMINATION OR INVESTIGATION;

13 (II) SHARING AND EXCHANGING RELEVANT INFORMATION AND
14 DOCUMENTS; AND

15 (III) ISSUING STATEMENTS OF POLICY, NOTICES, AND
16 INTERPRETATIVE OPINIONS.

17 5-7A-15.

18 (A) A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY
19 OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING
20 \$5,000 OR IMPRISONMENT NOT EXCEEDING ONE YEAR OR BOTH.

21 (B) IF A CORPORATION VIOLATES THIS SUBTITLE, EACH OFFICER
22 RESPONSIBLE FOR THE VIOLATION IS GUILTY OF A MISDEMEANOR AND ON
23 CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING \$5,000 OR IMPRISONMENT NOT
24 EXCEEDING ONE YEAR OR BOTH.

25 (C) (1) IF A PERSON VIOLATES ANY PROVISION OF THIS SUBTITLE, THE
26 DIRECTOR MAY IMPOSE A CIVIL FINE NOT EXCEEDING \$5,000 FOR EACH VIOLATION.

27 (2) IN SETTING THE AMOUNT OF A CIVIL PENALTY, THE DIRECTOR
28 SHALL CONSIDER:

29 (I) THE SERIOUSNESS OF THE VIOLATION;

30 (II) THE HARM CAUSED BY THE VIOLATION;

31 (III) THE GOOD FAITH OF THE VIOLATOR;

32 (IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE VIOLATOR;

33 AND

1 (V) ANY OTHER RELEVANT FACTORS.

2 (3) ANY CIVIL PENALTIES COLLECTED UNDER THIS SUBTITLE SHALL BE
3 PAID INTO THE GENERAL FUND OF THE STATE.

4 5-901.

5 (a) Except as otherwise provided in this title, an individual may not engage in
6 cemetery operations, attempt to engage in cemetery operations, or offer to provide
7 cemetery goods and services unless the individual is a registered cemeterian.

8 (b) Except as otherwise provided in this title, an individual may not engage in
9 a burial goods business or attempt to provide burial goods unless the individual is a
10 registered seller.

11 (C) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, AN INDIVIDUAL MAY
12 NOT ENGAGE IN THE OPERATION OF A CREMATORY OR OFFER TO PROVIDE
13 CREMATION SERVICES UNLESS THE INDIVIDUAL IS A REGISTERED CREMATORY
14 OPERATOR.

15 5-902.

16 Except for a registered cemeterian, REGISTERED CREMATORY OPERATOR, or
17 registered seller who operates a business as a sole practitioner, a person may not
18 engage in the operation of a cemetery, CREMATORY, or burial goods business unless:

19 (1) the business is a corporation, limited liability company, or
20 partnership; and

21 (2) the corporation, limited liability company, or partnership holds a
22 permit issued under this title.

23 5-903.

24 Unless a person is a registered cemeterian, REGISTERED CREMATORY
25 OPERATOR, or registered seller, a person may not represent to the public, by use of a
26 title, including cemeterian, registered cemeterian, CREMATORY OPERATOR,
27 REGISTERED CREMATORY OPERATOR, burial goods seller, or registered seller, by
28 description of services, methods, or procedures, or otherwise, that the person is
29 authorized to engage in the operation of a cemetery OR CREMATORY or provide burial
30 goods.

31 **Article - Health Occupations**

32 7-101.

33 (a) In this title the following words have the meanings indicated.

1 (b) "Apprentice" means an individual licensed by the Board who assists a
2 licensed mortician in the practice of mortuary science, under direct supervision of a
3 licensed mortician.

4 (c) "Apprentice sponsor" means a person who:

5 (1) Is a licensed mortician practicing mortuary science as a licensed
6 mortician in Maryland at least 1 year immediately prior to accepting the applicant as
7 an apprentice; and

8 (2) Provides direct supervision to an apprentice.

9 (d) "Board" means the Maryland State Board of Morticians.

10 (e) (1) "Corporation" means a mortuary science business whose articles of
11 incorporation are in good standing with the Maryland State Department of
12 Assessments and Taxation, or its successor, the initial business for which the license
13 is issued must have been incorporated on or before June 1, 1945 and have
14 "Incorporated", "Inc.", or "Corporation" in its name.

15 (2) "Corporation" does not include, for purposes of issuing a corporation
16 license, a "professional association" (P.A.) or a "professional corporation" (P.C.).

17 (f) "Courtesy card" means a license issued by the Board to licensed
18 practitioners of mortuary science in other states, to make a removal of a dead human
19 body in this State and to return the body to another state or country, to return dead
20 bodies from another state or country to this State, to fill out the family history portion
21 of the death certificate, and to sign the death certificate in the holder's capacity as a
22 licensed practitioner of mortuary science.

23 (G) "CREMATION" MEANS THE PROCESS OF REDUCING HUMAN REMAINS TO
24 BONE FRAGMENTS THROUGH INTENSE HEAT AND EVAPORATION, WHICH MAY
25 INCLUDE ANY MECHANICAL OR THERMAL PROCESS.

26 (H) "CREMATORY" MEANS ~~A PERSON AN INDIVIDUAL, SOLE PROPRIETORSHIP,~~
27 PARTNERSHIP, PROFESSIONAL ASSOCIATION, OR CORPORATION THAT CHARGES A
28 FEE FOR THE CREMATION OF HUMAN REMAINS.

29 (I) "CREMATORY LICENSE" MEANS A LICENSE ISSUED BY THE BOARD TO
30 ALLOW A SOLE PROPRIETORSHIP, PROFESSIONAL ASSOCIATION, PARTNERSHIP, OR
31 CORPORATION TO OPERATE A BUSINESS THROUGH WHICH A LICENSEE MAY ENGAGE
32 IN THE OPERATION OF A CREMATORY.

33 [(g)] (J) "Funeral director" means an individual who is licensed by the Board
34 to practice all aspects of mortuary science except for embalming.

35 [(h)] (K) "Funeral establishment" means any building, structure, or premises
36 from which the business of funeral directing or embalming is conducted.

1 [(i)] (L)(1) "License" means, unless the context requires otherwise, a license
2 issued by the Board.

3 (2) "License" includes, unless otherwise indicated:

4 (i) A mortician license;

5 (ii) An apprentice license;

6 (iii) A funeral director license;

7 (iv) A surviving spouse license;

8 (v) A corporation license;

9 (vi) A funeral establishment license; [and]

10 (vii) A courtesy card; AND

11 (VIII) A CREMATORY LICENSE.

12 [(j)] (M) "Licensed apprentice" means, unless the context requires otherwise,
13 an apprentice who is licensed by the Board to assist a licensed mortician in the
14 practice of mortuary science.

15 (N) "LICENSED CREMATORY OPERATOR" MEANS AN INDIVIDUAL WHO IS
16 LICENSED BY THE BOARD TO OPERATE A CREMATORY.

17 [(k)] (O) "Licensed funeral director" means, unless the context requires
18 otherwise, a funeral director who is licensed by the Board to practice funeral
19 direction.

20 [(l)] (P) "Licensed funeral establishment" means, unless the context requires
21 otherwise, a funeral establishment that is licensed by the Board.

22 [(m)] (Q) "Licensed mortician" means, unless the context requires otherwise, a
23 mortician who is licensed by the Board under this title to practice mortuary science.

24 [(n)] (R) "Licensee" means an individual or entity licensed by the Board to
25 practice mortuary science OR OPERATE A CREMATORY, to the extent determined by
26 the Board.

27 [(o)] (S) "Mortician" means an individual who practices mortuary science.

28 [(p)] (T) (1) "Practice funeral direction" means:

29 (i) To operate a funeral establishment; or

30 (ii) For compensation, to arrange for or make final disposition of a
31 dead human body.

1 (2) "Practice funeral direction" does not include, for compensation:

2 (i) Disinfecting or preserving a dead human body or any of its parts
3 by arterial or cavity injection or any other type of preservation; or

4 (ii) Otherwise preparing a dead human body for disposition.

5 [(q)] (U) (1) "Practice mortuary science" means:

6 (i) To operate a funeral establishment;

7 (ii) For compensation, to prepare a dead human body for
8 disposition, including disinfecting or preserving a dead human body or any of its parts
9 by arterial or cavity injection; or

10 (iii) For compensation, to arrange for or make final disposition of a
11 dead human body.

12 (2) "Practice mortuary science" does not include the pickup, removal, or
13 transportation of a dead human body, if the unlicensed individual is acting under the
14 direction of a licensed mortician or funeral director.

15 [(r)] (V) "Pre-need contract" means an agreement between a consumer and a
16 licensed funeral director, licensed mortician, or surviving spouse to provide any goods
17 and services purchased prior to the time of death. Goods and services shall include:

18 (1) A service, including any form of preservation and disposition, that a
19 mortician normally provides in the ordinary course of business; or

20 (2) Merchandise, including a casket, vault, or clothing, that a mortician
21 normally provides in the ordinary course of business.

22 [(s)] (W) "Surviving spouse" means the legal widow or widower of a licensed
23 funeral director or licensed mortician, whose license was in good standing at the time
24 of death, and who at the time of death, wholly or partly owned and operated a
25 mortuary science business.

26 7-102.

27 (a) This title does not limit the right of an individual to practice a health
28 occupation that the individual is authorized to practice under this article.

29 (b) This title does not apply to:

30 (1) [the] THE business of operating a cemetery [or crematory],
31 including the sale of cemetery lots, grave sites, mausoleums, monuments, lawn
32 crypts, or vaults; AND

33 (2) ~~THE OPERATION OF A CREMATORY THAT IS NOT OWNED AND~~
34 ~~OPERATED BY A LICENSED FUNERAL DIRECTOR, LICENSED MORTICIAN, OR~~
35 ~~SURVIVING SPOUSE LOCATED ON CEMETERY PROPERTY OR OF A CREMATORY~~

1 LOCATED ON ALL OTHER PROPERTY EXCEPT THOSE CREMATORIES OWNED AND
2 OPERATED BY A LICENSEE OR BUSINESS ENTITY MAJORITY OWNED BY A LICENSEE
3 UNDER THIS TITLE OR WHICH IS SUBJECT TO THE LICENSING PROVISIONS OF THIS
4 TITLE.

5 7-205.

6 In addition to the powers and duties set forth elsewhere in this title, the Board
7 has the following powers and duties:

8 (1) To adopt bylaws, rules, and regulations to carry out the provisions of
9 this title;

10 (2) To adopt a seal;

11 (3) To establish procedures for licensing apprentices;

12 (4) To keep a list of all individuals currently licensed by the Board;

13 (5) To investigate any alleged violation of this title;

14 (6) To enforce this title;

15 (7) To adopt rules and regulations regarding false and misleading
16 advertising and misrepresentation;

17 (8) To inspect THE RECORDS AND PREMISES OF licensed funeral
18 establishments AND CREMATORIES;

19 (9) On receipt of a written and signed complaint, including a referral
20 from the Commissioner of Labor and Industry, conduct an unannounced inspection of
21 the funeral establishment to determine compliance at that funeral establishment
22 with the Centers for Disease Control's guidelines on universal precautions;

23 (10) To establish standards for the practice of mortuary science; [and]

24 (11) To establish standards for sanitation and waste disposal in
25 connection with the practice of mortuary science; AND

26 (12) DISTRIBUTE A COPY OF THIS TITLE AND ANY APPLICABLE
27 REGULATIONS TO EACH LICENSEE.

28 7-301.

29 (a) Except as provided in subsection (b) of this section, an individual shall be
30 licensed by the Board before the individual may practice mortuary science OR
31 OPERATE A CREMATORY in this State.

32 (b) This section does not:

1 (1) Limit the right of a school of medicine or dentistry to use and dispose
2 of a dead human body or its parts;

3 (2) Limit the right of any person who is authorized by law to handle or
4 dispose of a dead human body or its parts, if the person acts within the scope of that
5 authorization;

6 (3) Affect the right of an authorized officer or employee of the United
7 States or the District of Columbia to practice mortuary science in the course of that
8 individual's duties;

9 (4) Apply to an individual who makes funeral arrangements in the
10 course of the duties of that individual as an attorney or a personal representative;
11 [or]

12 (5) (i) Limit the right of the Board to issue temporary permits to
13 out-of-state licensed morticians for teaching purposes involving an approved
14 continuing education program or disaster situations as deemed necessary by the
15 Board[.];

16 (ii) A mortician who is issued a temporary permit shall be subject to
17 any conditions and limitations that the Board may specify in the permit and the
18 provisions of this title; OR

19 (6) AFFECT THE RIGHT OF AN INDIVIDUAL WHO IS NOT A LICENSED
20 MORTICIAN, LICENSED FUNERAL DIRECTOR, OR SURVIVING SPOUSE FROM
21 OPERATING A CREMATORY IN ACCORDANCE WITH TITLE 5 OF THE BUSINESS
22 REGULATION ARTICLE.

23 7-310.1

24 (A) A CREMATORY OPERATOR SHALL BE LICENSED BY THE BOARD BEFORE
25 OPERATING A CREMATORY IN THE STATE.

26 (B) TO APPLY FOR A CREMATORY LICENSE, AN APPLICANT SHALL:

27 (1) SUBMIT TO THE BOARD AN APPLICATION ON THE FORM PROVIDED
28 BY THE BOARD; AND

29 (2) PAY A NONREFUNDABLE FEE SET BY THE BOARD.

30 (C) THE APPLICATION SHALL STATE:

31 (1) THE NAME, DATE OF BIRTH, AND RESIDENTIAL ADDRESS OF THE
32 APPLICANT;

33 (2) THE NAME AND FIXED ADDRESS OF THE CREMATORY;

34 (3) WHETHER THE CREMATORY WITH WHICH THE APPLICANT IS
35 AFFILIATED IS OWNED OR CONTROLLED AS A SOLE PROPRIETORSHIP,
36 PROFESSIONAL ASSOCIATION, PARTNERSHIP, OR CORPORATION;

1 (4) THE NAME AND RESIDENTIAL ADDRESS OF EACH EMPLOYEE WHO
2 ENGAGES IN THE OPERATION OF THE CREMATORY; AND

3 (5) ANY OTHER REASONABLE INFORMATION THAT THE BOARD
4 DETERMINES IS NECESSARY TO CARRY OUT THIS TITLE.

5 (D) ~~(H)~~ AN APPLICANT SHALL DEMONSTRATE THE FINANCIAL STABILITY OF
6 THE CREMATORY WITH WHICH THE APPLICANT IS AFFILIATED BY:

7 (1) PROVIDING THE BOARD WITH A ~~FINANCIAL STATEMENT~~
8 CERTIFICATE OF GOOD STANDING FROM THE STATE DEPARTMENT OF ASSESSMENTS
9 AND TAXATION WITH THE APPLICATION FOR REGISTRATION; AND

10 ~~(2) IF THE APPLICANT IS AN EXISTING CREMATORY BUSINESS, THE~~
11 ~~FINANCIAL STATEMENT SHALL:~~

12 ~~(I) BE ON THE FORM THAT THE BOARD REQUIRES;~~

13 ~~(II) CONTAIN A STATEMENT BY A CERTIFIED PUBLIC ACCOUNTANT~~
14 ~~EMPLOYED BY THE APPLICANT, DETAILING THE ASSETS AND LIABILITIES OF THE~~
15 ~~CREMATORY FOR THE LAST FISCAL YEAR;~~

16 ~~(III) CONTAIN AN OPINION BY THE CERTIFIED PUBLIC~~
17 ~~ACCOUNTANT AS TO THE FINANCIAL STABILITY OF THE CREMATORY; AND~~

18 ~~(IV) (2) SATISFY SATISFYING CRITERIA THAT THE BOARD ADOPTS~~
19 ~~UNDER PARAGRAPH (4) OF THIS SUBSECTION.~~

20 (3) IF THE APPLICANT IS A NEW CREMATORY BUSINESS, THE FINANCIAL
21 STATEMENT SHALL:

22 (I) BE ON A FORM THAT THE BOARD REQUIRES; AND

23 (II) SATISFY CRITERIA THAT THE BOARD ADOPTS UNDER
24 PARAGRAPH (4) OF THIS SUBSECTION.

25 (4) (I) THE BOARD SHALL MAKE A DETERMINATION OF THE
26 FINANCIAL STABILITY OF EACH APPLICANT BASED ON CRITERIA THAT THE BOARD
27 ADOPTS.

28 (II) THE BOARD SHALL ADOPT SEPARATE CRITERIA TO DETERMINE
29 THE FINANCIAL STABILITY OF APPLICANTS THAT ARE NEW BUSINESSES OR
30 EXISTING BUSINESSES.

31 (E) A CREMATORY LICENSE ISSUED UNDER THIS TITLE AUTHORIZES THE
32 LICENSEE TO ENGAGE IN THE OPERATION OF A CREMATORY WHILE THE LICENSE IS
33 EFFECTIVE.

1 7-310.2.

2 (A) SUBJECT TO THE PROVISIONS OF THIS SECTION, A LICENSED CREMATORY
3 OPERATOR MAY ENGAGE IN THE OPERATION OF A CREMATORY AS A SOLE
4 PROPRIETOR OR THROUGH:

5 (1) A CORPORATION AS AN OFFICER, DIRECTOR, EMPLOYEE, OR AGENT
6 OF THE CORPORATION; OR

7 (2) A PROFESSIONAL ASSOCIATION OR PARTNERSHIP AS A PARTNER,
8 EMPLOYEE, OR AGENT OF THE PROFESSIONAL ASSOCIATION OR PARTNERSHIP.

9 (B) SUBJECT TO THE PROVISIONS OF THIS TITLE, A CORPORATION,
10 PROFESSIONAL ASSOCIATION, OR PARTNERSHIP MAY ENGAGE IN THE OPERATION
11 OF A CREMATORY THROUGH A LICENSED CREMATORY OPERATOR.

12 (C) (1) A CORPORATION, PROFESSIONAL ASSOCIATION, OR PARTNERSHIP
13 THAT ENGAGES IN THE OPERATION OF A CREMATORY UNDER THIS TITLE IS NOT, BY
14 ITS COMPLIANCE WITH THIS TITLE, RELIEVED OF ANY RESPONSIBILITY THAT THE
15 CORPORATION, PROFESSIONAL ASSOCIATION, OR PARTNERSHIP MAY HAVE FOR AN
16 ACT OR OMISSION BY ITS OFFICER, DIRECTOR, MEMBER, PARTNER, EMPLOYEE, OR
17 AGENT.

18 (2) AN INDIVIDUAL WHO ENGAGES IN THE OPERATION OF A
19 CREMATORY THROUGH A CORPORATION, PROFESSIONAL ASSOCIATION, OR
20 PARTNERSHIP IS NOT, BY REASON OF THE INDIVIDUAL'S EMPLOYMENT OR OTHER
21 RELATIONSHIP WITH THE CORPORATION, PROFESSIONAL ASSOCIATION, OR
22 PARTNERSHIP, RELIEVED OF ANY RESPONSIBILITY THAT THE INDIVIDUAL MAY
23 HAVE REGARDING THE OPERATION OF THE CREMATORY.

24 7-310.3.

25 A CORPORATION, PROFESSIONAL ASSOCIATION, OR PARTNERSHIP SHALL
26 OBTAIN A CREMATORY LICENSE ISSUED BY THE BOARD, BEFORE THE CORPORATION,
27 PROFESSIONAL ASSOCIATION, OR PARTNERSHIP MAY ENGAGE IN THE OPERATION
28 OF A CREMATORY IN THE STATE.

29 7-310.4.

30 AT LEAST 1 WEEK BEFORE THE EFFECTIVE DATE OF THE CHANGE, A
31 CREMATORY LICENSEE SHALL SUBMIT TO THE BOARD AN APPLICATION FORM THAT
32 SHOWS A CHANGE IN THE:

33 (1) CREMATORY WITH WHICH THE LICENSEE IS AFFILIATED;

34 (2) LICENSED CREMATORY OPERATOR DESIGNATED AS RESPONSIBLE
35 FOR THE OPERATION OF THE CREMATORY;

36 (3) EMPLOYEES OF THE LICENSEE;

1 (4) OFFICERS, DIRECTORS, MEMBERS, OR AGENTS OF THE LICENSEE; OR

2 (5) NAME OR ADDRESS OF THE LICENSEE.

3 7-315.

4 (a) The Board shall reinstate the license of an individual who has failed to
5 renew a mortician license, CREMATORY LICENSE, or funeral director license for any
6 reason if the individual:

7 (1) Requests that the Board reinstate the license;

8 (2) Meets the appropriate renewal requirements of this subtitle;

9 (3) Pays to the Board a reinstatement fee set by the Board;

10 (4) Submits to the Board an affidavit stating that the individual did not
11 practice mortuary science OR OPERATE A CREMATORY in this State while the license
12 was expired; and

13 (5) Applies to the Board for reinstatement of the license within 5 years
14 after the license expires.

15 (b) The Board may not reinstate the license of a mortician, CREMATORY
16 OPERATOR, or funeral director who fails to apply for reinstatement of the license
17 within 5 years after the license expires unless the mortician, CREMATORY OPERATOR,
18 or funeral director meets the terms and conditions established by the Board.

19 7-315.1.

20 (A) UPON RECEIPT OF A WRITTEN COMPLAINT MADE BY ANY PERSON TO THE
21 BOARD THAT SPECIFICALLY STATES THE FACTS ON WHICH THE COMPLAINT IS
22 BASED, THE BOARD SHALL INITIATE AN INVESTIGATION.

23 (B) IF, AFTER CONDUCTING AN INVESTIGATION, THE BOARD DETERMINES
24 THAT THERE IS A REASONABLE BASIS TO BELIEVE THAT THERE ARE GROUNDS FOR
25 DISCIPLINARY ACTION UNDER § 7-316 OF THIS SUBTITLE, THE BOARD SHALL
26 PROVIDE THE PERSON AGAINST WHOM THE ACTION IS CONTEMPLATED ~~AND~~ AN
27 OPPORTUNITY FOR A HEARING UNDER § 7-319 OF THIS SUBTITLE.

28 (C) (1) IF, AFTER CONDUCTING AN INVESTIGATION, THE BOARD
29 DETERMINES THAT THERE IS NOT A REASONABLE BASIS TO BELIEVE THAT THERE
30 ARE GROUNDS FOR DISCIPLINARY ACTION, THE BOARD SHALL DISMISS THE
31 COMPLAINT.

32 (2) ANY PARTY AGGRIEVED BY THE DISMISSAL MAY TAKE A JUDICIAL
33 APPEAL IN ACCORDANCE WITH THE PROVISIONS OF TITLE 10 OF THE STATE
34 GOVERNMENT ARTICLE.

1 (D) THE BOARD SHALL ADOPT GUIDELINES THAT ESTABLISH A SCHEDULE
2 FOR THE PROMPT AND TIMELY PROCESSING AND RESOLUTION OF EACH COMPLAINT
3 MADE TO THE BOARD.

4 7-316.

5 (a) Subject to the hearing provisions of § 7-319 of this subtitle and except as to
6 a funeral establishment license OR A CREMATORY LICENSE, the Board may deny a
7 license to any applicant, reprimand any licensee, place any licensee on probation, or
8 suspend or revoke any license if the applicant or licensee:

9 (1) Fraudulently or deceptively obtains or attempts to obtain a license
10 for the applicant or licensee or for another;

11 (2) Fraudulently or deceptively uses a license;

12 (3) Commits fraud or misrepresentation in the practice of mortuary
13 science;

14 (4) Is convicted of or pleads guilty or nolo contendere to a felony or to a
15 crime involving moral turpitude, whether or not any appeal or other proceeding is
16 pending to have the conviction or plea set aside;

17 (5) Aids or abets an unauthorized person in the practice of mortuary
18 science;

19 (6) Advertises falsely or in a misleading manner;

20 (7) Solicits mortuary science business, either personally or by an agent,
21 from a dying individual or the relatives of a dead or dying individual, other than
22 through general advertising;

23 (8) Employs, pays, or offers to pay a "capper", "steerer", "solicitor", or any
24 other person to obtain business, either in general or for a licensee or funeral
25 establishment;

26 (9) Directly or indirectly pays or offers to pay to obtain mortuary science
27 business;

28 (10) Solicits or accepts any payment or rebate for recommending any
29 crematory, mausoleum, or cemetery or causing a dead human body to be disposed of
30 there;

31 (11) Refuses to surrender custody of a dead human body on the demand of
32 a person who is entitled to its custody;

33 (12) Sells or offers to sell any share, certificate, or interest in a mortuary
34 science business with a promise or offer to perform services to the buyer at a cost less
35 than that offered to the general public;

- 1 (13) Fails, after proper demand, to refund promptly any payments
2 received under a pre-need contract with interest;
- 3 (14) At the time funeral arrangements are made, fails to give the contract
4 required by § 7-404 of this title;
- 5 (15) Violates any State, municipal, or county law, rule, or regulation on
6 the handling, custody, care, or transportation of dead human bodies or the disposal of
7 instruments, materials, and wastes relevant to preparation of a dead human body for
8 final disposition;
- 9 (16) Practices mortuary science under a name other than:
- 10 (i) The name that appears on the license of that person; or
- 11 (ii) The name of a partnership in accordance with § 7-401 of this
12 title;
- 13 (17) Signs an application for a funeral establishment license if the signer
14 knew or should have known that grounds existed for which the funeral establishment
15 license later was denied, suspended, or revoked;
- 16 (18) Violates any provision of this title or of the laws relating to
17 cremation;
- 18 (19) Is disciplined by a licensing or disciplinary authority of any other
19 state or country or convicted or disciplined by a court of any state or country for an act
20 that would be grounds for disciplinary action under the Board's disciplinary statutes;
- 21 (20) Willfully makes or files a false report or record in the practice of
22 mortuary science;
- 23 (21) Willfully fails to file or record any report as required under law,
24 willfully impedes or obstructs the filing or recording of the report, or induces another
25 to fail to file or record the report;
- 26 (22) Submits a false statement to collect a fee;
- 27 (23) Provides professional services while:
- 28 (i) Under the influence of alcohol; or
- 29 (ii) Using any narcotic or controlled dangerous substance, as
30 defined in Article 27 of the Code, or other drug that is in excess of therapeutic
31 amounts or without valid medical indication;
- 32 (24) Violates any rule or regulation adopted by the Board;
- 33 (25) Is professionally, physically, or mentally incompetent;

1 (26) Commits an act of unprofessional conduct in the practice of mortuary
2 science;

3 (27) Refuses, withholds from, denies, or discriminates against an
4 individual with regard to the provision of professional services for which the licensee
5 is licensed and qualified to render because the individual is HIV positive;

6 (28) Except in an emergency life-threatening situation where it is not
7 feasible or practicable, fails to comply with the Centers for Disease Control's
8 guidelines on universal precautions;

9 (29) Fails to allow an inspection under § 7-205(8) of this title;

10 (30) Fails to comply with inspection requirements in the time specified by
11 the Board; or

12 (31) Fails to provide the Board the certification required under § 7-405(i)
13 of this title.

14 (b) (1) Subject to the hearing provisions of § 7-319 of this subtitle and
15 paragraph (2) of this subsection, the Board may reprimand, place on probation, deny,
16 suspend, or revoke a funeral establishment license for any of the grounds listed in
17 subsection (a) of this section.

18 (2) The Board may not reprimand, place on probation, deny, suspend, or
19 revoke a funeral establishment license because of a violation of a provision of this title
20 by an employee of the establishment, unless the employee has a proprietary interest
21 in the business that is conducted from the establishment.

22 (C) (1) SUBJECT TO THE HEARING PROVISIONS OF § 7-319 OF THIS SUBTITLE
23 AND PARAGRAPH (2) OF THIS SUBSECTION, THE BOARD MAY REPRIMAND, PLACE ON
24 PROBATION, DENY, SUSPEND, OR REVOKE A CREMATORY LICENSE IF AN APPLICANT,
25 LICENSEE, OR AN AGENT, EMPLOYEE, OFFICER, DIRECTOR, OR PARTNER OF THE
26 APPLICANT OR LICENSEE:

27 (I) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO
28 OBTAIN A LICENSE;

29 (II) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE;

30 (III) UNDER THE LAWS OF THE UNITED STATES OR OF ANY STATE, IS
31 CONVICTED OF A:

32 1. FELONY; OR

33 2. MISDEMEANOR THAT IS DIRECTLY RELATED TO THE
34 FITNESS AND QUALIFICATION OF THE APPLICANT OR LICENSEE TO OWN OR
35 OPERATE A CREMATORY;

- 1 (IV) FAILS TO PROVIDE OR MISREPRESENTS ANY INFORMATION
 2 REQUIRED TO BE PROVIDED UNDER THIS TITLE;
- 3 (V) VIOLATES THIS TITLE;
- 4 (VI) VIOLATES A REGULATION ADOPTED UNDER THIS TITLE;
- 5 (VII) FAILS TO PROVIDE REASONABLE AND ADEQUATE SUPERVISION
 6 OF THE OPERATION OF THE CREMATORY BY AGENTS, EMPLOYEES, OFFICERS,
 7 DIRECTORS, OR PARTNERS AFFILIATED WITH THE CREMATORY;
- 8 (VIII) REFUSES TO ALLOW AN INSPECTION REQUIRED BY THIS TITLE;
- 9 (IX) FAILS TO COMPLY WITH AN ORDER OF THE BOARD; OR
- 10 (X) IS FOUND GUILTY BY A COURT IN THIS STATE OF COMMITTING
 11 AN UNFAIR AND DECEPTIVE TRADE PRACTICE.

12 (2) THE BOARD SHALL CONSIDER THE FOLLOWING FACTS IN THE
 13 GRANTING, DENIAL, RENEWAL, SUSPENSION, OR REVOCATION OF A LICENSE OR THE
 14 PROBATION OR REPRIMAND OF A LICENSEE WHEN AN APPLICANT, LICENSEE, OR AN
 15 AGENT, EMPLOYEE, OFFICER, DIRECTOR, OR PARTNER OF A LICENSEE IS CONVICTED
 16 OF A FELONY OR MISDEMEANOR DESCRIBED IN PARAGRAPH (1) OF THIS
 17 SUBSECTION:

- 18 (I) THE NATURE OF THE CRIME;
- 19 (II) THE RELATIONSHIP OF THE CRIME TO THE ACTIVITIES
 20 AUTHORIZED BY THE LICENSE;
- 21 (III) WITH RESPECT TO A FELONY, THE RELEVANCE OF THE
 22 CONVICTION TO THE FITNESS AND QUALIFICATION OF THE APPLICANT, LICENSEE,
 23 AGENT, EMPLOYEE, OFFICER, DIRECTOR, OR PARTNER TO OPERATE A CREMATORY;
- 24 (IV) THE LENGTH OF TIME SINCE THE CONVICTION; AND
- 25 (V) THE BEHAVIOR AND ACTIVITIES OF THE APPLICANT, LICENSEE,
 26 AGENT, EMPLOYEE, OFFICER, DIRECTOR, OR PARTNER BEFORE AND AFTER THE
 27 CONVICTION.

28 7-316.1.

29 (a) (1) An action may be maintained in the name of the State or the Board to
 30 enjoin:

- 31 [(1)] (I) The unauthorized practice of mortuary science; or
- 32 [(2)] (II) Conduct that constitutes a ground for disciplinary action under
 33 § 7-315 of this subtitle.

34 [(b)] (2) An action under this [section] SUBSECTION may be brought by:

- 1 [(1)] (I) The Board;
- 2 [(2)] (II) The Attorney General; or
- 3 [(3)] (III) A State's Attorney.

4 [(c)] (3) An action under this [section] SUBSECTION shall be brought in the
5 county where the defendant:

- 6 [(1)] (I) Resides; or
- 7 [(2)] (II) Engages in the practice of mortuary science.

8 (B) (1) IF A LICENSEE OR A CREMATORY SUBJECT TO THE PROVISIONS OF
9 THIS TITLE IS CHARGED WITH A VIOLATION OF THIS TITLE THAT COULD RESULT IN
10 SUSPENSION OR REVOCATION OF THE LICENSE, THE BOARD MAY SEEK AN
11 IMMEDIATE RESTRAINING ORDER IN A CIRCUIT COURT IN THIS STATE TO PROHIBIT
12 THE LICENSEE FROM ENGAGING IN THE OPERATION OF A CREMATORY.

13 (2) THE RESTRAINING ORDER IS IN EFFECT UNTIL:

- 14 (I) THE COURT LIFTS THE ORDER; OR
- 15 (II) THE CHARGES ARE ADJUDICATED OR DISMISSED.

16 [(d)] (C) Proof of actual damage or proof that a person will sustain damage if
17 an injunction OR RESTRAINING ORDER is not granted is not required for an action
18 under this section.

19 [(e)] (D) Criminal prosecution for the unauthorized practice of mortuary
20 science OR THE UNAUTHORIZED OPERATION OF A CREMATORY under § 7-501 of this
21 title or disciplinary action under § 7-316 of this subtitle does not prohibit an action to
22 enjoin under this section.

23 (E) (1) IF A CREMATORY LICENSEE OR A CREMATORY SUBJECT TO THE
24 PROVISIONS OF THIS TITLE IS CHARGED WITH A VIOLATION OF THIS TITLE THAT
25 COULD RESULT IN SUSPENSION OR REVOCATION OF THE LICENSE, THE BOARD MAY
26 PETITION A COURT TO:

27 (1) APPOINT A RECEIVER OR TRUSTEE TO TAKE CHARGE OF THE ASSETS
28 AND OPERATE THE BUSINESS OF THE PERSON IN THE EVENT THAT THE LICENSE IS
29 SUSPENDED OR REVOKED; AND

30 (2) TAKE OTHER ACTIONS AS ARE APPROPRIATE TO PROTECT THE
31 PUBLIC INTEREST.

32 7-317.

33 (a) [If] EXCEPT FOR A CREMATORY LICENSE, IF, after the Board brings an
34 action under § 7-316 of this title, the Board finds that there are grounds to place a

1 licensee on probation or suspend or revoke a license, the Board may impose a penalty
2 not exceeding \$5,000:

3 (1) Instead of suspending or revoking the license; or

4 (2) In addition to placing the licensee on probation or suspending or
5 revoking the license.

6 (B) (1) IF, AFTER THE BOARD BRINGS AN ACTION UNDER § 7-316 OF THIS
7 TITLE, THE BOARD FINDS THERE ARE GROUNDS TO PLACE A CREMATORY LICENSEE
8 ON PROBATION OR SUSPEND OR REVOKE THE CREMATORY LICENSE, THE BOARD
9 MAY IMPOSE A CIVIL PENALTY:

10 (I) INSTEAD OF OR IN ADDITION TO SUSPENDING OR REVOKING
11 THE LICENSE; OR

12 (II) IN ADDITION TO PLACING THE LICENSEE ON PROBATION.

13 (2) THE CIVIL PENALTY IMPOSED BY THE BOARD UNDER THIS
14 SUBSECTION MAY NOT:

15 (I) EXCEED \$5,000 FOR EACH VIOLATION OF THIS TITLE, A
16 REGULATION ENACTED UNDER THIS TITLE, OR AN ORDER OF THE BOARD; OR

17 (II) EXCEED \$500 FOR EACH DAY A VIOLATION CONTINUES PAST
18 THE TIME SET BY THE BOARD FOR ITS CORRECTION.

19 (3) WHEN DETERMINING THE AMOUNT OF THE CIVIL PENALTY IMPOSED
20 UNDER THIS SUBSECTION, THE BOARD SHALL CONSIDER:

21 (I) THE SERIOUSNESS OF THE VIOLATION;

22 (II) THE HARM CAUSED BY THE VIOLATION;

23 (III) THE GOOD FAITH EFFORTS OF THE LICENSEE TO CORRECT OR
24 PREVENT THE VIOLATION;

25 (IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE LICENSEE;
26 AND

27 (V) ANY OTHER RELEVANT FACTORS.

28 [(b)] (C) The Board shall pay any penalty collected under this section into the
29 General Fund of the State.

30 7-321.

31 (a) The Board shall place a licensee on inactive status if the licensee submits
32 to the Board:

- 1 (1) An application for inactive status on the form required by the Board;
2 and
- 3 (2) Pays the inactive status fee set by the Board.
- 4 (b) A licensee on inactive status may reactivate the license at any time if the
5 licensee:
- 6 (1) Complies with the continuing education requirements in effect for the
7 year in which the licensee seeks to reactivate the license;
- 8 (2) Has not practiced mortuary science OR OPERATED A CREMATORY in
9 the State while on an inactive status; and
- 10 (3) Pays the reactivation fee set by the Board.
- 11 (c) If a license is inactive for more than 5 years, the licensee shall take and
12 pass the Maryland Morticians Law Examination administered by the Board.

13 SUBTITLE 3A. CREMATORIES.

14 7-3A-01.

15 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
16 INDICATED.

17 (B) "AUTHORIZING AGENT" MEANS A PERSON LEGALLY ENTITLED TO ORDER
18 THE CREMATION OF HUMAN REMAINS OR LEGALLY AUTHORIZED TO CONTROL THE
19 FINAL DISPOSITION OF HUMAN REMAINS.

20 (C) "CREMATED REMAINS" MEANS ALL HUMAN REMAINS RECOVERED AFTER
21 COMPLETION OF CREMATION AND, IF DONE, PULVERIZATION.

22 (D) "CREMATION CHAMBER" MEANS THE ENCLOSED SPACE WITHIN WHICH
23 THE PROCESS OF CREMATION OF HUMAN REMAINS TAKES PLACE.

24 (E) "CREMATION CONTAINER" MEANS A CONTAINER IN WHICH HUMAN
25 REMAINS ARE PLACED IN THE CREMATION CHAMBER FOR CREMATION.

26 (F) "CREMATORY AUTHORITY" MEANS A LEGAL ENTITY THAT HAS BEEN
27 APPROVED BY THE BOARD TO OPERATE AS A CREMATORY AND PERFORM
28 CREMATIONS.

29 (G) "CREMATORY ESTABLISHMENT" MEANS THE BUILDING OR PORTION OF A
30 BUILDING THAT HOUSES THE NECESSARY APPLIANCES AND FACILITIES FOR THE
31 CREMATION OF HUMAN REMAINS.

32 (H) "EMBALMING" MEANS THE DISINFECTION OR PRESERVING OF HUMAN
33 REMAINS BY ARTERIAL OR CAVITY INJECTION OR ANY OTHER TYPE OF
34 PRESERVATION.

1 (I) "ENGAGE IN THE OPERATION OF A CREMATORY" MEANS OWNING,
2 CONTROLLING, OPERATING, OR MANAGING A CREMATORY.

3 (J) "FACSIMILE DEVICE" MEANS A MACHINE THAT TRANSMITS, RECEIVES,
4 AND COPIES REPRODUCTIONS OR FACSIMILES OF DOCUMENTS OR PHOTOGRAPHS
5 THAT HAVE BEEN TRANSMITTED ELECTRONICALLY OR TELEPHONICALLY OVER
6 TELECOMMUNICATIONS LINES.

7 (K) (1) "FINAL DISPOSITION" MEANS THE LAWFUL DISPOSITION OF HUMAN
8 REMAINS OR HUMAN CREMATED REMAINS, INCLUDING BUT NOT LIMITED TO
9 INTERMENT AND SCATTERING OF HUMAN CREMATED REMAINS OR, UNLESS THE
10 AUTHORIZING AGENT DESIRES THE HUMAN REMAINS RETURNED FROM THE
11 MEDICAL INSTITUTION, THE DELIVERY OF HUMAN REMAINS TO A MEDICAL
12 INSTITUTION.

13 (2) "FINAL DISPOSITION" DOES NOT INCLUDE THE ACT OF CREMATION.

14 (L) "HOLDING FACILITY" MEANS AN AREA WITHIN OR ADJACENT TO THE
15 CREMATORY ESTABLISHMENT DESIGNED FOR THE RETENTION OF HUMAN REMAINS
16 PRIOR TO CREMATION.

17 (M) "HUMAN REMAINS" MEANS THE BODY OF A DECEASED PERSON, OR PART
18 OF A BODY OR LIMB THAT HAS BEEN REMOVED FROM A LIVING PERSON, INCLUDING
19 THE BODY, PART OF A BODY, OR LIMB IN ANY STATE OF DECOMPOSITION.

20 (N) "PROCESSED REMAINS" MEANS THE END RESULT OF PULVERIZATION,
21 WHERE THE RESIDUE FROM THE CREMATION PROCESS IS CLEANED LEAVING ONLY
22 BONE FRAGMENTS REDUCED TO 5 MILLIMETERS OR LESS.

23 (O) "SEALABLE CONTAINER" MEANS ANY CONTAINER IN WHICH PROCESSED
24 REMAINS CAN BE PLACED AND SEALED SO AS TO PREVENT LEAKAGE OR THE
25 ENTRANCE OF FOREIGN MATERIALS.

26 7-3A-02.

27 A PERSON MAY ONLY OPERATE A CREMATORY ESTABLISHMENT AND PROVIDE
28 THE NECESSARY APPLIANCES AND FACILITIES FOR THE CREMATION OF HUMAN
29 REMAINS IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE.

30 7-3A-03.

31 (A) A CREMATION CONTAINER SHALL:

32 (1) BE COMPOSED OF READILY COMBUSTIBLE MATERIALS SUITABLE
33 FOR CREMATION;

34 (2) BE CLOSED AND PROVIDE A COMPLETE COVERING FOR THE HUMAN
35 REMAINS;

36 (3) BE RESISTANT TO LEAKAGE OR SPILLAGE; AND

1 (4) PROVIDE PROTECTION TO THE HEALTH AND SAFETY OF CREMATORY
2 ESTABLISHMENT PERSONNEL.

3 (B) A HOLDING FACILITY SHALL:

4 (1) COMPLY WITH APPLICABLE PUBLIC HEALTH LAWS;

5 (2) PRESERVE THE DIGNITY OF HUMAN REMAINS;

6 (3) RECOGNIZE THE INTEGRITY, HEALTH, AND SAFETY OF CREMATORY
7 ESTABLISHMENT PERSONNEL; AND

8 (4) BE SECURE FROM ACCESS BY UNAUTHORIZED PERSONS.

9 7-3A-04.

10 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A CREMATORY
11 AUTHORITY MAY NOT CREMATE HUMAN REMAINS UNTIL:

12 (1) THE CREMATORY HAS RECEIVED:

13 (I) A CREMATION AUTHORIZATION ON A FORM APPROVED BY THE
14 BOARD AND SIGNED BY AN AUTHORIZING AGENT;

15 (II) IF APPLICABLE, A WRITTEN DELEGATION DOCUMENT OR
16 FACSIMILE; AND

17 (III) ANY OTHER DOCUMENTATION REQUIRED BY FEDERAL, STATE,
18 OR LOCAL LAW; AND

19 (2) THE CREMATORY AUTHORITY HAS WAITED AT LEAST 12 HOURS
20 FROM THE TIME OF DEATH OF THE INDIVIDUAL WHOSE REMAINS ARE TO BE
21 CREMATED.

22 (B) THE CREMATION AUTHORIZATION FORM SHALL BE PROVIDED BY THE
23 CREMATORY AUTHORITY TO THE AUTHORIZING AGENT AND SHALL CONTAIN THE
24 FOLLOWING INFORMATION:

25 (1) THE IDENTITY OF THE HUMAN REMAINS;

26 (2) THE NAME AND ADDRESS OF THE AUTHORIZING AGENT AND THE
27 RELATIONSHIP BETWEEN THE AUTHORIZING AGENT AND THE DECEASED;

28 (3) AUTHORIZATION FOR THE CREMATORY AUTHORITY TO CREMATE
29 THE HUMAN REMAINS;

30 (4) A REPRESENTATION THAT THE AUTHORIZING AGENT IS AWARE OF
31 NO OBJECTION TO THE HUMAN REMAINS BEING CREMATED BY ANY PERSON WHO
32 HAS A RIGHT TO CONTROL THE DISPOSITION OF THE HUMAN REMAINS; AND

1 (5) THE NAME AND ADDRESS OF THE PERSON AUTHORIZED TO CLAIM
2 THE CREMATED REMAINS FROM THE CREMATORY AUTHORITY.

3 (C) (1) IF AN AUTHORIZING AGENT IS NOT AVAILABLE TO EXECUTE THE
4 CREMATION AUTHORIZATION FORM, THE AUTHORIZING AGENT MAY DELEGATE
5 THAT AUTHORITY TO ANOTHER INDIVIDUAL IN WRITING, OR IF LOCATED OUTSIDE
6 THE AREA, BY SENDING THE CREMATORY AUTHORITY A SIGNED STATEMENT BY
7 FACSIMILE DEVICE THAT CONTAINS THE NAME, ADDRESS, AND RELATIONSHIP OF
8 THE SENDER TO THE DECEASED AND THE NAME AND ADDRESS OF THE INDIVIDUAL
9 TO WHOM AUTHORITY IS DELEGATED.

10 (2) UPON RECEIPT OF THE WRITTEN DELEGATION DOCUMENT OR A
11 COPY OF THE STATEMENT TRANSMITTED BY FACSIMILE DEVICE, THE CREMATORY
12 AUTHORITY SHALL ALLOW THE NAMED INDIVIDUAL TO SERVE AS THE AUTHORIZING
13 AGENT.

14 (D) (1) A PERSON SIGNING A CREMATION AUTHORIZATION FORM IS
15 DEEMED TO WARRANT THE TRUTHFULNESS OF ANY FACTS SET FORTH IN THE
16 CREMATION AUTHORIZATION FORM, INCLUDING THE IDENTITY OF THE DECEASED
17 WHOSE REMAINS ARE SOUGHT TO BE CREMATED AND THE AUTHORITY OF THAT
18 PERSON TO ORDER SUCH A CREMATION.

19 (2) A PERSON SIGNING A CREMATION AUTHORIZATION FORM IS
20 PERSONALLY AND INDIVIDUALLY LIABLE FOR ALL DAMAGE THAT RESULTS FROM A
21 SUBSEQUENT CREMATION OR DISPOSAL OF CREMATED REMAINS BASED ON THE
22 CREMATION AUTHORIZATION FORM.

23 (E) (1) A CREMATORY AUTHORITY THAT CREMATES HUMAN REMAINS
24 PURSUANT TO A SIGNED CREMATION AUTHORIZATION FORM OR RELEASES OR
25 DISPOSES OF CREMATED REMAINS PURSUANT TO A SIGNED CREMATION
26 AUTHORIZATION FORM IS IMMUNE TO ANY LIABILITY ARISING FROM THE
27 CREMATORY AUTHORITY'S RELIANCE ON THE CREMATION AUTHORIZATION FORM.

28 (2) A CREMATORY AUTHORITY IS NOT RESPONSIBLE OR LIABLE FOR ANY
29 VALUABLES DELIVERED TO THE CREMATORY OPERATOR WITH HUMAN REMAINS.

30 (F) (1) A CREMATORY AUTHORITY SHALL MAINTAIN A COPY OF EVERY
31 CREMATION AUTHORIZATION FORM REQUIRED UNDER THIS SECTION AS
32 PERMANENT RECORDS.

33 (2) SUCH RECORDS ARE SUBJECT TO INSPECTION AND COPYING BY THE
34 BOARD.

35 7-3A-05.

36 (A) A CREMATORY AUTHORITY SHALL PROVIDE TO AN INDIVIDUAL WHO
37 DELIVERS HUMAN REMAINS FOR CREMATION A RECEIPT SIGNED BY BOTH THE
38 CREMATORY AUTHORITY AND THE PERSON WHO DELIVERED THE HUMAN REMAINS,
39 THAT INCLUDES:

1 (1) THE NAME OF THE INDIVIDUAL FROM WHOM THE HUMAN REMAINS
2 WERE RECEIVED AND THE NAME OF THE INDIVIDUAL'S EMPLOYER, IF ANY;

3 (2) THE NAME AND ADDRESS OF THE CREMATORY AUTHORITY; AND

4 (3) THE NAME AND ADDRESS OF THE DECEASED.

5 (B) THE CREMATORY AUTHORITY SHALL MAINTAIN A RECORD OF EACH
6 CREMATION WHICH SHALL INCLUDE:

7 (1) THE NAME OF THE DECEASED;

8 (2) THE DATE AND PLACE OF DEATH;

9 (3) THE NAME AND ADDRESS OF THE AUTHORIZING AGENT;

10 (4) THE DATE AND LOCATION OF CREMATION; AND

11 (5) THE NAME OF THE INDIVIDUAL WHO PERFORMED THE CREMATION.

12 (C) THE CREMATORY AUTHORITY SHALL PROVIDE A CERTIFICATE OF
13 DISPOSITION OF CREMATED REMAINS TO THE AUTHORIZING AGENT THAT
14 CONTAINS:

15 (1) THE NAME OF THE DECEASED;

16 (2) THE NAME OF THE AUTHORIZING AGENT;

17 (3) THE NAME AND ADDRESS OF THE PERSON WHO RECEIVED THE
18 CREMATED REMAINS FROM THE CREMATORY AUTHORITY; AND

19 (4) IF ASCERTAINABLE, THE LOCATION, INCLUDING THE NAME OF THE
20 CEMETERY AND PLOT LOCATION IF THE REMAINS ARE INTERRED, MANNER, AND
21 DATE OF THE DISPOSITION OF THE CREMATED REMAINS.

22 (D) (1) THE CREMATORY AUTHORITY SHALL MAINTAIN A COPY OF EVERY
23 RECORD AND RECEIPT REQUIRED BY THIS SECTION AS PERMANENT RECORDS.

24 (2) SUCH RECORDS ARE SUBJECT TO INSPECTION AND COPYING BY THE
25 BOARD.

26 7-3A-06.

27 (A) A CREMATORY AUTHORITY IS NOT LIABLE FOR REFUSING TO ACCEPT A
28 BODY OR TO PERFORM A CREMATION UNTIL THE CREMATORY AUTHORITY RECEIVES
29 A COURT ORDER OR OTHER SUITABLE CONFIRMATION THAT A DISPUTE HAS BEEN
30 SETTLED IF:

31 (1) THE CREMATORY AUTHORITY IS AWARE OF ANY DISPUTE
32 CONCERNING THE CREMATION OF HUMAN REMAINS;

1 (2) THE CREMATORY AUTHORITY HAS A REASONABLE BASIS FOR
2 QUESTIONING THE REPRESENTATIONS MADE BY THE AUTHORIZING AGENT; OR

3 (3) THE CREMATORY AUTHORITY HAS ANY OTHER LAWFUL REASON.

4 (B) (1) IF A CREMATORY AUTHORITY IS AWARE OF A DISPUTE CONCERNING
5 THE RELEASE OR DISPOSITION OF CREMATED REMAINS, THE CREMATORY
6 AUTHORITY MAY REFUSE TO RELEASE THE CREMATED REMAINS UNTIL THE
7 DISPUTE HAS BEEN RESOLVED OR THE CREMATORY AUTHORITY HAS BEEN
8 PROVIDED WITH A COURT ORDER AUTHORIZING THE RELEASE OR DISPOSITION OF
9 THE CREMATED REMAINS.

10 (2) A CREMATORY AUTHORITY IS NOT LIABLE FOR REFUSING TO
11 RELEASE OR DISPOSE OF CREMATED REMAINS IN ACCORDANCE WITH THIS
12 SUBSECTION.

13 7-3A-07.

14 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A
15 CREMATORY AUTHORITY MAY NOT:

16 (1) REQUIRE THAT HUMAN REMAINS BE PLACED IN A CASKET BEFORE
17 CREMATION OR THAT HUMAN REMAINS BE CREMATED IN A CASKET; OR

18 (2) REFUSE TO ACCEPT HUMAN REMAINS FOR CREMATION BECAUSE
19 THE REMAINS ARE NOT IN A CASKET.

20 (B) HUMAN REMAINS DELIVERED TO A CREMATORY ESTABLISHMENT MAY
21 NOT BE REMOVED FROM THE CREMATION CONTAINER AND THE CREMATION
22 CONTAINER SHALL BE CREMATED WITH THE HUMAN REMAINS, UNLESS THE
23 CREMATORY AUTHORITY HAS BEEN PROVIDED WITH WRITTEN INSTRUCTIONS TO
24 THE CONTRARY BY THE AUTHORIZING AGENT.

25 (C) A CREMATORY AUTHORITY MAY NOT REQUIRE THAT HUMAN REMAINS BE
26 SUBJECTED TO EMBALMING BEFORE CREMATION.

27 7-3A-08.

28 (A) IMMEDIATELY UPON TAKING CUSTODY OF HUMAN REMAINS, A
29 CREMATORY AUTHORITY SHALL VERIFY THAT THE HUMAN REMAINS BEAR A MEANS
30 OF IDENTIFICATION ATTACHED TO THE CREMATION CONTAINER OR TO THE
31 REMAINS.

32 (B) A CREMATORY AUTHORITY MAY NOT ACCEPT UNIDENTIFIED HUMAN
33 REMAINS.

34 (C) A CREMATORY AUTHORITY SHALL IDENTIFY THE REMAINS OF THE
35 DECEASED AS REQUIRED BY § 5-502 OF THE HEALTH - GENERAL ARTICLE AND § 7-406
36 OF THIS TITLE.

1 7-3A-09.

2 (A) HUMAN REMAINS THAT HAVE BEEN DESIGNATED FOR CREMATION SHALL
3 BE CREMATED BY A CREMATORY AUTHORITY WITHIN A REASONABLE TIME AFTER
4 RECEIPT.

5 (B) IF A CREMATORY AUTHORITY IS UNABLE TO CREMATE HUMAN REMAINS
6 WITHIN A REASONABLE TIME AFTER RECEIPT, THE CREMATORY AUTHORITY SHALL
7 PROVIDE A HOLDING FACILITY FOR THE RETENTION OF THE HUMAN REMAINS.

8 (C) A CREMATORY AUTHORITY MAY NOT HOLD HUMAN REMAINS FOR
9 CREMATION UNLESS THE HUMAN REMAINS ARE CONTAINED WITHIN AN
10 INDIVIDUAL, RIGID, CLOSED CREMATION CONTAINER.

11 (D) A CREMATORY AUTHORITY MAY NOT ACCEPT A CREMATION CONTAINER
12 FROM WHICH THERE IS ANY EVIDENCE OF LEAKAGE OF THE BODY FLUIDS FROM
13 THE HUMAN REMAINS THEREIN.

14 (E) HUMAN REMAINS THAT ARE NOT EMBALMED AND THAT ARE NOT
15 CREMATED WITHIN A REASONABLE TIME SHALL BE HELD WITHIN A REFRIGERATED
16 HOLDING FACILITY AND IN COMPLIANCE WITH APPLICABLE PUBLIC HEALTH
17 REGULATIONS.

18 (F) A HOLDING FACILITY SHALL BE SECURE FROM ACCESS BY
19 UNAUTHORIZED PERSONS.

20 7-3A-10.

21 (A) (1) HUMAN REMAINS MAY NOT BE CREMATED WITH A POTENTIALLY
22 HAZARDOUS PACEMAKER OR OTHER POTENTIALLY HAZARDOUS IMPLANT IN PLACE.

23 (2) AN AUTHORIZING AGENT SHALL TAKE ALL NECESSARY STEPS TO
24 ENSURE THAT ANY HAZARDOUS PACEMAKER OR HAZARDOUS IMPLANT IS REMOVED
25 PRIOR TO CREMATION.

26 (B) IMMEDIATELY PRIOR TO BEING PLACED WITHIN THE CREMATION
27 CHAMBER, THE IDENTIFICATION OF THE HUMAN REMAINS SHALL BE VERIFIED BY
28 THE CREMATORY AUTHORITY AND IDENTIFICATION OF THE HUMAN REMAINS BEING
29 CREMATED SHALL BE PLACED NEAR THE CREMATION CHAMBER CONTROL PANEL
30 WHERE IT SHALL REMAIN IN PLACE UNTIL THE CREMATION PROCESS IS COMPLETE.

31 (C) (1) A CREMATORY AUTHORITY MAY NOT ENGAGE IN THE
32 SIMULTANEOUS CREMATION OF THE HUMAN REMAINS OF MORE THAN ONE PERSON
33 WITHIN THE SAME CREMATION CHAMBER UNLESS THE CREMATORY AUTHORITY
34 HAS RECEIVED SPECIFIC WRITTEN AUTHORIZATION TO DO SO FROM ALL
35 AUTHORIZING AGENTS FOR THE HUMAN REMAINS TO BE SO CREMATED.

36 (2) SUCH WRITTEN AUTHORIZATION SHALL EXEMPT THE CREMATORY
37 AUTHORITY FROM ALL LIABILITY FOR COMMINGLING OF THE PRODUCT OF THE
38 CREMATION PROCESS.

1 (3) (I) THE CREMATORY AUTHORITY SHALL MAINTAIN THE WRITTEN
2 AUTHORIZATIONS REQUIRED UNDER THIS SUBSECTION AS PERMANENT RECORDS.

3 (II) SUCH RECORDS ARE SUBJECT TO INSPECTION AND COPYING
4 BY THE BOARD.

5 7-3A-11.

6 (A) (1) UPON COMPLETION OF THE CREMATION, INSOFAR AS IS POSSIBLE,
7 ALL OF THE RECOVERABLE RESIDUE OF THE CREMATION PROCESS SHALL BE
8 REMOVED FROM THE CREMATION CHAMBER AND PLACED IN A CONTAINER ~~TO~~
9 ~~AWAIT FINAL PROCESSING.~~

10 (2) THE IDENTIFICATION DESCRIBED UNDER § 7-3A-10(B) OF THIS
11 SUBTITLE SHALL BE REMOVED FROM THE CONTROL PANEL AREA AND ATTACHED TO
12 THE CONTAINER ~~TO AWAIT FINAL PROCESSING.~~

13 (B) THE ENTIRE CREMATED OR PROCESSED REMAINS SHALL BE PLACED IN A
14 SEALABLE CONTAINER OR IN SUCH CONTAINER AS MAY HAVE BEEN ORDERED BY
15 THE AUTHORIZING AGENT, TOGETHER WITH AN IDENTIFICATION TAG WHICH
16 COMPLIES WITH THE REQUIREMENTS OF § 7-411 OF THIS TITLE.

17 (C) IF THE CREMATED OR PROCESSED REMAINS WILL NOT FIT WITHIN THE
18 DIMENSIONS OF A SEALABLE CONTAINER OR CONTAINER AS MAY HAVE BEEN
19 ORDERED BY THE AUTHORIZING AGENT, THE REMAINDER OF THE CREMATED OR
20 PROCESSED REMAINS SHALL BE RETURNED TO THE AUTHORIZING AGENT, OR THE
21 AGENT'S REPRESENTATIVE, IN A SEPARATE, SEALABLE CONTAINER.

22 (D) IF THE CREMATED OR PROCESSED REMAINS DO NOT ADEQUATELY FILL
23 THE CONTAINER'S INTERIOR DIMENSIONS, THE EXTRA SPACE MAY BE FILLED WITH
24 PACKING MATERIAL THAT WILL NOT BECOME INTERMINGLED WITH THE CREMATED
25 REMAINS OR PROCESSED REMAINS AND THEN SECURELY CLOSED.

26 (E) (1) IF A SEALABLE CONTAINER IS USED TO RETURN CREMATED OR
27 PROCESSED REMAINS, THE CONTAINER SHALL BE PLACED WITHIN A SEPARATE,
28 STURDY BOX AND ALL BOX SEAMS TAPED CLOSED.

29 (2) THE OUTSIDE OF THE CONTAINER SHALL BE CLEARLY IDENTIFIED
30 WITH THE NAME OF THE DECEASED PERSON WHOSE CREMATED OR PROCESSED
31 REMAINS ARE CONTAINED THEREIN.

32 7-3A-12.

33 (A) (1) IF CREMATED REMAINS OR PROCESSED REMAINS HAVE BEEN IN THE
34 POSSESSION OF A CREMATORY AUTHORITY AS ORIGINALLY AUTHORIZED BY THE
35 AUTHORIZING AGENT, WITHOUT INSTRUCTIONS FOR FINAL DISPOSITION, FOR A
36 PERIOD OF 1 YEAR OR MORE FROM THE DATE OF CREMATION, THE CREMATORY
37 AUTHORITY MAY ATTEMPT TO CONTACT THE AUTHORIZING AGENT BY CERTIFIED
38 MAIL, RETURN RECEIPT REQUESTED, REQUESTING DISPOSITION INSTRUCTIONS AND

1 INFORMING THE AUTHORIZING AGENT OF THE PROCEDURES THAT MAY BE
2 FOLLOWED IF DISPOSITION INSTRUCTIONS ARE NOT RECEIVED.

3 (2) IF CONTACT CANNOT BE MADE OR DISPOSITION INSTRUCTIONS ARE
4 NOT GIVEN WITHIN 60 DAYS OF THE DATE ON WHICH THE CERTIFIED MAILING IS
5 MADE, THE CREMATORY AUTHORITY MAY ARRANGE FOR PERMANENT DISPOSITION
6 OF THE REMAINS IN ANY MANNER PERMITTED BY LAW.

7 (3) A CREMATORY AUTHORITY IS NOT LIABLE FOR THE
8 NONRECOVERABILITY OF ANY CREMATED OR PROCESSED REMAINS DISPOSED OF
9 UNDER THIS SECTION.

10 (B) THE AUTHORIZING AGENT SHALL BE LIABLE FOR REIMBURSING THE
11 CREMATORY AUTHORITY FOR ALL REASONABLE EXPENSES INCURRED IN DISPOSING
12 OF THE CREMATED REMAINS OR PROCESSED REMAINS UNDER THIS SECTION.

13 7-3A-13.

14 (A) (1) A CREMATORY AUTHORITY IS SUBJECT TO INSPECTIONS IN
15 ACCORDANCE WITH REGULATIONS ADOPTED BY THE BOARD.

16 (2) AN INSPECTION FEE MAY BE ASSESSED ON A CREMATORY
17 AUTHORITY.

18 (B) THE BOARD SHALL REIMBURSE A GOVERNMENT AGENCY FOR ANY COSTS
19 THAT THE AGENCY SUSTAINS BECAUSE OF AN INSPECTION OF A CREMATORY
20 AUTHORITY CONDUCTED BY THE BOARD IN ACCORDANCE WITH REGULATIONS
21 ADOPTED BY THE BOARD.

22 7-3A-14.

23 (A) IN ORDER TO ENSURE EFFECTIVE REGULATION OF CREMATORY
24 AUTHORITIES, THE BOARD MAY COOPERATE WITH ANY GOVERNMENTAL LAW
25 ENFORCEMENT OR REGULATORY AGENCY.

26 (B) THIS COOPERATION MAY INCLUDE:

27 (1) PARTICIPATING IN A JOINT EXAMINATION OR INVESTIGATION;

28 (2) SHARING AND EXCHANGING RELEVANT INFORMATION AND
29 DOCUMENTS; AND

30 (3) ISSUING STATEMENTS OF POLICY, NOTICES, AND INTERPRETATIVE
31 OPINIONS.

32 }7-406.

33 A licensee shall maintain a complete file of a cremation that includes the
34 signature of the next of kin, person identifying the body, or person responsible for
35 disposition, time of death, and the date and time of cremation.}

1 7-411.

2 (a) Before burial or interment, a mortician shall affix to the long bones of the
3 deceased human body a plastic or metal identification tag.

4 (b) After cremation, a licensee shall ensure that a metal or plastic
5 identification tag is placed in the [cremains] CREMATION container.

6 (c) The identification tag shall contain:

7 (1) The name of the decedent;

8 (2) The Social Security number of the decedent;

9 (3) The decedent's date of birth; and

10 (4) The decedent's date of death.

11 7-501.

12 Except as otherwise provided in this title, a person may not practice, attempt to
13 practice, offer to practice, or assist in the practice of mortuary science OR THE
14 OPERATION OF A CREMATORY in this State unless licensed by the Board.

15 7-502.

16 [Unless] EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, UNLESS authorized
17 to practice mortuary science OR OPERATE A CREMATORY under this title, a person
18 may not represent to the public by title, by description of services, methods, or
19 procedures, or otherwise, that the person is authorized to practice mortuary science
20 OR OPERATE A CREMATORY in this State.

21 7-508.

22 (A) [A] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A person
23 who violates any provision of this title is guilty of a misdemeanor and on conviction is
24 subject to a fine not exceeding \$500 or imprisonment not exceeding 1 year or both.

25 (B) (1) A PERSON WHO VIOLATES ANY PROVISION OF SUBTITLE 3A OF THIS
26 TITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE
27 NOT EXCEEDING \$5,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

28 (2) IF A CORPORATION VIOLATES THIS SUBTITLE, EACH OFFICER
29 RESPONSIBLE FOR THE VIOLATION IS GUILTY OF A MISDEMEANOR AND ON
30 CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$5,000 OR IMPRISONMENT NOT
31 EXCEEDING 1 YEAR OR BOTH.

32 SECTION 2. AND BE IT FURTHER ENACTED, That the Office of Cemetery
33 Oversight and the State Board of Morticians shall concur in the proposal and
34 adoption of each agency's regulations governing crematories in the State of Maryland.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2001.